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of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE 1239th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 20 August 1997, at 10 a.m.

Chairman: Mr. BANTON

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CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Seventh to tenth periodic reports of Burundi (continued) (CERD/C/295/Add.1)

1. At the invitation of the Chairman, the members of the delegation of Burundi resumed their places at the Committee table.

2. Mr. NSANZE (Burundi) said that, while there might seem to be a paradox or contradiction in the statement in the report (CERD/C/295/Add.1) that Burundi had no races or ethnic groups, it was nonetheless true. A group of people was considered to be an ethnic group if its members had a culture and civilization in common. All Burundians shared not only those two features but also the same language and way of life, there were not even any dialects. Another defining factor for ethnic groups or tribes was the existence of geographical divisions. In Burundi, before the cataclysm of 1993, Hutus and Tutsis had coexisted in the villages and collines; that ethnic mixture had not been institutionalized by the State. There was no geographical division between groups in Burundi, and furthermore all Burundians shared the same monotheistic religion and the same surnames. In short, the country had achieved a highly advanced degree of integration, more than almost any of the countries whose nationals sat on the Committee. After independence, however - and Belgium, the former colonial Power, could not be blamed - that integration had been disrupted by the Burundians themselves, Hutus and Tutsis, in their struggle for power. Currently there existed what might be called artificial political ethnic groups, whereas, from a purely biological standpoint, there were numerous mixed families deriving from centuries of intermarriage. The break in integration dated to the post-colonial era.

3. Burundi had notably been influenced by events in neighbouring Rwanda, where the social disaster of 1958-59 had led to the first genocide. Moreover, Burundi was overpopulated, with almost 7 million inhabitants living on 30,000 square metres of territory. Poverty, underdevelopment and overpopulation were the real causes of the chronic conflict in his country. The successive tragedies affecting Burundi were being attributed to the respective ethnic groups, but they had coexisted peacefully over the centuries. It was the politicians, the elite - especially those lacking in political intelligence, professionalism, academic qualifications or other skills - who had created the so-called "ethnic" cleavage for their own political and material survival. There was only one ethnic group in Burundi.

4. The ignoble assassination of President Ndadaye in 1993 had been condemned by most Burundians; he had been the President not of one social faction but of the entire country. Some said he had been assassinated because he was Hutu, but in fact it had been for political reasons. Many Tutsis had voted for him; they had grown rich during the previous regime and had even contributed to his presidential campaign. In August 1995 Mr. Nsanze had addressed the Security Council, calling for an urgent international investigative commission to identify the President's assassins as well as those responsible for the massacres of many Hutus and Tutsis. Those massacres had unfortunately recurred, almost since the time of independence, and they were committed both by Hutus against Tutsis and by Tutsis against Hutus.

5. According to the International Commission of Inquiry in Burundi, genocide had occurred against a part of the population, but another part of the population had also been the victim of massacres; a more impartial body would have to resolve the question. Recently, the Secretary-General and the Security Council had been asked to create an international criminal court, but neither of them had considered it was the right time to do so. In the meantime, national courts had been established.

6. Mr. BARAHIRAJE (Burundi) said that one of the Government's main priorities was to combat impunity. Specialized chambers had been created within the appeals courts, of which there were three and had been operating for more than two years. Defence was provided by the bar association, with the assistance of international lawyers. Case files had been drawn up, convictions were being handed down and executed and legal proceedings were now under way; a detailed list of activities could be provided.

7. Mr. NSANZE (Burundi) said that since the new regime had come to power in Burundi in July 1996, the neighbouring countries had held high-level meetings and proposed certain measures, such as sending security assistance - a euphemism for creating a military presence in Burundi. That idea had aroused widespread protest, although some segments of the population had been in favour. The neighbouring countries had then proclaimed an economic blockade against Burundi that same month. The Government had made some mistakes in reacting to the blockade. From the legal standpoint, however, it was pleading, not on behalf of the regime, but of the Burundian people. Contrary to what the authors of the embargo had anticipated, it was the population - Twas, Hutus and Tutsis - that was suffering the most, and not the regime. The Government was doing everything in its power to have the embargo lifted, but the conditions imposed made it difficult for it to negotiate. Most of the Government's political partners were willing to negotiate, but some including the political party of President Buyoya, were not; it was a dilemma, but everyone was now eagerly awaiting the outcome of the negotiations scheduled for 25 August.

8. Some of the political players were refusing to participate in the negotiations because the National Council for the Defence of Democracy (CNDD), which some had accused of committing genocide, had been invited to participate. Were all CNDD members guilty of genocide? Once an international or national legal body was established, it must take care to identify those responsible for genocide within the political movements, whether the CNDD, other political parties or the former presidential majority, and those designated as authors of genocide should be excluded from the negotiations. Anyone - whether civilian or military - suspected of being involved in genocide or attempted genocide should be brought to justice and tried by international judges, national judges or a combination thereof. Interrogations were already under way in connection with the assassination of President Ndadaye, involving 79 soldiers, including one high-ranking officer, as well as some civilians.

9. Burundi was a small, overpopulated, landlocked country and one of the least developed; the embargo was having a disastrous effect, much worse than the effect of the embargoes against Cuba, which was surrounded by water; Libya, only a very small proportion of whose economy was affected; or Iraq, a

rich oil-producing country with other economic, commercial and industrial sources. The Burundian people were dying as a result of the embargo; the Committee should take action to help them.

10. Members had asked about the distribution of power among the various groups in the Government, the army, the justice system, etc. He was opposed to any system of quotas for certain groups in such jobs, which might itself become a form of racial discrimination. People were not employed because they were Hutu or Tutsi, but because they were qualified for the job. No Government since Burundi's independence had consisted entirely of members of one group, although naturally there had at times been some nepotism or favouritism to the benefit of one group over another. Some injustices had occurred, but the Government was determined to resolve them by means of a national forum where all groups could meet on an equal basis and state their claims. In any case, the injustices were not necessarily based on ethnic grounds: in 1986, he himself had been thrown into prison by the then President Bagaza, a Tutsi like himself, because of his political opinions.

11. Members had asked about the conduct of the Burundi army. The army had been faced with a dilemma. The Hutus had accused the Tutsis of carrying out massacres, and vice versa, and the army had felt obliged to intervene in order to protect the people. It was not taking action against Hutus or Tutsis, but against criminals. If the Committee wished, it could send a delegation to Burundi to investigate the army's conduct and show that it had done only what was necessary. Naturally, some members of the army had committed acts of violence, particularly those who had lost their families in the massacres of 1993 and 1994; some of those acts had been ethnically motivated, but the perpetrators had been duly punished for them. Such acts had considerably decreased in recent years.

12. Mr. BARAHIRAJE (Burundi), replying to the question about the number of Hutus employed in the judicial system, said that he had begun his own legal career under a Hutu judge. He had not been aware of any ethnic problems. It was only later that the "demonization" of the Hutus had begun. The Vice-Chairman of the National Assembly was a Hutu, and had been prosecuted for his actions during the political crisis, although he had been acquitted. The judicial system took no account of a person's ethnic origin, and had certainly not dismissed any Hutu judges.

13. Mr. NSANZE (Burundi) said that, if the Committee was concerned about the distribution of power in the country, it would do better to ask about the representation of the various political parties, rather than that of the various tribal groups. It was true that most members of the Government were Hutus, although he was still reluctant to use the term "Hutu" or "Tutsi" because the various groups did not have different languages, culture or territories and were thus not considered by the Government to be different ethnic groups. To give some specific figures, the Government appointed in 1993 by President Ndadaye had contained between 8 and 12 members (out of a total of between 23 and 27) belonging to the party which had lost the election. President Ndadaye had not been obliged to appoint them, but he had done so to increase the sense of security of both Hutus and Tutsis. He did not have any figures about the distribution of power between the various groups in the new Government.

14. Mr. BARAHIRAJE (Burundi) said that the Government in power since 25 July 1996 was a Government of National Union, whose aim was national reconciliation and which contained representatives of all political opinions.

15. Members had asked why the Constitution had been suspended. Unfortunately, some provisions of the old Constitution had made it impossible to restore full political order, and the Constitution had been suspended for that reason.

16. Mr. NSANZE (Burundi) recalled that members had asked about the situation of the Twa group. The data quoted about the ethnic composition of Burundi were very questionable, since there had never been a census in the country. The Twa people were not excluded from Burundi society and were not persecuted in any way. They had chosen to live at the margin of society, away from the Hutu and Tutsi groups. The new Government had invited them to participate in political affairs.

17. Members had asked about the Abashingantahe Council, or council of wise people ("sages"). In its original form, the members of the Council had been chosen by the population, both Hutu and Tutsi, for their moral qualities and social and political skills. A few months before, the Council had been officially recognized in a presidential decree. Some still felt that the people should choose the members of the Council, whereas others felt that their nomination by the head of State would be a safeguard against segregationist tendencies. The Council, which had approximately 10 female members, had recently asked the President for decision-making powers, in addition to its existing advisory role, and that issue was still being debated.

18. Regarding the new regime's achievements in the area of peace and security, some progress had been made, but many problems remained in the administration, the judicial system and other sectors partly because of the economic blockade. Acts of violence by the security forces always received considerable publicity, but the atrocities committed by the rebels against both Hutus and Tutsis appeared to go unnoticed. The Government was determined to fulfil its commitment to restore peace and security for all Burundians.

19. In reply to questions about the "regroupment camps" for civilians in various parts of the country, he explained that because of the many massacres which had taken place, civilians, both Hutu and Tutsi, had been invited to gather in the camps for displaced persons, where they received the proper and necessary military protection, and had done so voluntarily. The measure had drawn considerable international criticism because it had not been properly understood. It was only a temporary measure which did not affect the people's rights to carry on farming and other economic activities.

20. Members had asked why there had been no legal proceedings against persons who had committed acts of racial or ethnic discrimination. The Government was trying to set up an impartial mechanism through the criminal chambers to consider, inter alia, racial or ethnic discrimination cases, as well as reforming the criminal justice system as a whole. The accused had the right to national or international counsel for their defence. However, trained and impartial judges would be needed who enjoyed the trust of the people.

21. Mr. BARAHIRAJE (Burundi) said that three criminal chambers, functioning within the appeal courts, were in operation in the country: he would send the Committee statistics and tables relating to their work. The people who appeared before those chambers were prosecuted in accordance with the law establishing the criminal chambers and Burundi criminal law and were granted all the rights of a defendant, including the right to appeal to the court of cassation, the Supreme Court and even to the President who could grant mercy only after consultation with the Supreme Council of the Magistrature.

22. Returning to the question of peace and security, he said that the new Government's main aim was to restore the authority of the State and then to establish a peace process in which the parties to the conflict could resolve their differences. A Ministry for the Peace Process had just been established. Insecurity persisted in some parts of the country, but the overall situation was gradually improving He felt that the Government's actions so far were ample proof of its sincere wish for peace.

23. Mr. NSANZE (Burundi), replying to questions on human rights associations, said that there were a number of multi-ethnic human rights leagues in Burundi.

24. As far as the refugees were concerned, their situation could only be described as a national tragedy. Burundi was admittedly one of the greatest originators of refugees but it had always been the policy of the present and previous regimes, at least theoretically, to appeal to them to return. Unfortunately the conditions obtaining in the country at certain times had constituted an obstacle to the return of all refugees. According to recent information, there were 200,000 Burundian refugees in Tanzania and a further 80,000 in the Democratic Republic of the Congo. However, as the conditions in Burundi were now worse than ever due to the total economic blockade, it was likely that people would return to find themselves refugees in their own country.

25. Burundi therefore needed the help of the international community in securing a total lifting of the embargo against the Burundian people. Neither the Committee nor any other United Nations body nor its respective Member States were being called upon to recognize the current regime but rather to help the Burundian people create a healthy atmosphere in their country. His party was prepared to negotiate with all national movements which could demonstrate their representativity. Nine political parties, formerly in opposition, including the hard-liners, had been represented at all the meetings which he had chaired at party headquarters, and high-level talks were expected to take place shortly between the military, the armed rebels and the politicians.

26. Assistance in the form of international troops was not required and was unjustified. The Burundi army, despite periods of armed insurrection, had succeeded in limiting the damage and was in the process of completing its mission. However, if the military were found to have committed acts of an illegal nature against the population, it would be penalized.

27. In addition to international assistance, he proposed formally that the Committee itself should send a special fact-finding delegation to Burundi to see for itself what was happening and who was responsible for the massacres. Any judgement made at a distance would be subjective and based on incomplete information. It was therefore his hope that the Committee would respond positively to his proposal.

28. Burundi's problem was not an ethnic one but a political one, brought about by the regimes of three successive military heads of State, who had fought amongst themselves, not for ethnic reasons since they were all Tutsis, but for power. Political solutions were therefore required. A democratic system needed to be established to put into power a leader whose policies were the most reliable and acceptable to the people.

29. The army would also have to be restructured once a national covenant of peaceful intercommunity existence had been established. To that end, recruitment on the basis of qualification rather than on a regional or ethnic basis, would ensure its neutrality and readiness to serve any head of State, whether Hutu, Tutsi or Twa. In that connection the South African army had set an example which Burundi would do well to follow.

30. Among the reasons for Burundi's situation, poverty, overpopulation and a lack of resources both in the private and public sectors were the most obvious. The private sector was small and could not hope to make good the shortcomings of the State apparatus, for instance with regard to employment. The answer to Burundi and Rwanda's problems therefore lay beyond national boundaries. Only regional integration could provide the vital space for the populations and the opportunities they so urgently needed.

31. Another important objective was to eliminate all ethnic influence in politics and to establish a political leadership capable of achieving the country's objectives. Indeed those were the two main objectives of his own political party. Burundi needed political leaders who would provide hospitals, schools, jobs and security, but they would not succeed without international help.

32. As to where the country was going and the solution to the cycle of violence, only national reconciliation would enable all parties to coexist in a country that was safe, united and peaceful for all three component groups.

33. The CHAIRMAN thanked the delegation for the clarity and force with which it had elaborated on the Government's policies. It had been especially satisfactory to note the parallel drawn with the South African process of reconciliation.

34. Mr. WOLFRUM (Country Rapporteur) said that differences in perception between the Committee and the delegation appeared to have lessened to some extent in the course of the dialogue.

35. He fully agreed with the representative of Burundi that the task of the Burundi Government and of the Committee was the protection of individuals or groups. The Committee did not take sides and spoke only for individuals who

for many years had led a very dangerous and unsatisfactory existence in Burundi. Its objectives were the same as those of the population in terms of better living conditions.

36. Furthermore, the Committee had no intention of starting any process which might lead to the disintegration of the State and had even passed a general recommendation to that effect. Its aim was to preserve the integrity of States.

37. It was undoubtedly true, as the delegation had stated, that a solution to the problems of the Burundi population could only be found at the regional level. It was therefore important that each State in the region should be ready for a solution. Cooperation between neighbouring States in the region was also essential, bearing in mind in particular the claim that Burundi was a victim of developments of other countries. For instance, although Burundi was producing refugees, it had also received refugees and that had an impact on the situation in the country.

38. He had taken some encouragement from a statement which had been brought to his notice that negotiations had started between the Government and the CNDD at the beginning of the year and that both parties had decided to identify the problems and the causes of the Burundi conflict and agree upon appropriate solutions, notably the mechanisms which would guarantee the restitution of constitutional order, peaceful coexistence, the protection of all strata of the Burundi population, the cessation of all hostilities and the end of violence. He fully agreed with those objectives.

39. One of the most important elements of that process was the problem of identification. The Committee had been told that the problem was a political one. In the Committee's experience, few issues were of a non-political nature. Some of Burundi's problems were clearly due to overpopulation and economic hardship resulting from the devastating effect of the embargo. Others undoubtedly stemmed from the artificially created divergences which only the peace plan could solve. Divergences clearly existed in the perception of some groups, and the present regime should therefore be striving to overcome them and restore national unity. In that respect at least the Committee and the delegation were in agreement. The issue was a serious one which required more work, insight and assessment. The discussion had nevertheless led to a better understanding and there had been some very promising indications in the State party's statement.

40. Another serious problem to be solved was that of impunity, and Burundi was not alone in that respect. South Africa, too, had had to deal with the problem and its ingenious solution might be worth looking into, but not necessarily copying. Although criminal law did not solve all problems, it was essential that those who had committed mass violations of human rights should be brought to justice and prosecuted regardless of their present positions in the army, the judiciary or elsewhere. The three special chambers which had been established and the 80 soldiers facing trial would not alone be the answer. The question raised the previous day as to whether those who had been accused of participation in the 1993 and later massacres had been brought to trial had not been answered nor did the figures supplied provide any indication.

41. The Committee had received additional important information on the court system, notably that foreign barristers could participate in court proceedings. That was a welcome development which should be mentioned in the concluding observations as a positive aspect. However, the Committee had learned that, for reasons unknown, no foreign barristers had participated in the trial of a Twa who had recently been sentenced to death.

42. Much had been said about the quota system and that it was inappropriate on ethnic grounds. That argument was understandable where the Government, the administration and the judiciary were concerned. However, as the country clearly did not have enough qualified people from all ethnic groups, the educational system should be opened up to everybody on an equal footing. The statement by a member of the delegation that there had been injustices in the past which needed to be corrected was encouraging for the future.

43. The regroupment system remained a cause for concern despite the assurance that the free will of the people had been upheld. The fact that regroupment had been carried out under military control and surveillance could have a negative impact on certain parts of the population more than on others. It would be absolutely contrary to the International Convention on the Elimination of All Forms of Racial Discrimination if regrouping were to result in some form of ethnic cleansing, whether intentional or by effect. There had been no indication of ethnic cleansing and no accusations were being made but in the light of experience elsewhere, the warning had to be given.

44. Information had been provided about the refugées who had left Burundi and the appeal for them to return to their country, where it was hoped they would find reconciliation, but the problem of the refugees in Burundi remained, whatever their country of origin, and their situation gave rise to considerable concern.

45. In response to the delegation's encouragement to the Committee to send a delegation to Burundi to appreciate the situation there at first hand, he explained that the Committee had never before taken such a step. It had previously sent a mission to Kosovo, but more for mediation than for inquiry purposes, and on two other occasions had sent a member to other countries to offer assistance. It would therefore have to consider the offer further and he would reserve any judgement on the issue for the time being. The idea did have the merit of affording the Committee an opportunity to obtain direct information on the situation rather than assessing it from afar.

46. He was not sure whether it was within the mandate of the Committee to send such a mission, since that was normally a matter for the United Nations to decide, but he appreciated the spirit in which the offer had been extended and considered the offer to be a very positive move on the part of the delegation. It showed a willingness on the part of Burundi to continue the dialogue on a very solid basis and to avail itself of the Committee's assistance - one of the Committee's main roles - in examining the root causes of the situation in Burundi, and it would certainly make for more objective grounds on which the Committee could base its further consideration of the implementation of the Convention in Burundi.

47. He welcomed the positive attitude demonstrated towards continued constructive, more informed dialogue, and expressed the hope that the Committee would be able to help Burundi in overcoming a very discouraging and serious situation. The delegation of Burundi could rest assured of the Committee's commitment to extending all possible assistance.

48. Mr. YUTZIS said in connection with the differences of opinion on the definition of what constituted an ethnic group, there were statistics, conclusive data on the effects of the situation in Burundi on the Hutus and, mainly, the Tutsis. At the current stage of events, which probably were rooted in the history of the country, there was indeed a political division, which as Mr. Wolfrum had said could be interpreted in many ways. If it was a problem of power, it translated into tensions between two groups which had already been delimited in one way or the other. That seemed to be an undisputable fact.

49. Paragraph 26 of the report, in connection with the implementation of article 4, stated that the Political Parties Act prohibited all forms of discrimination based on ethnic status. Such a provision could hardly have been introduced with foreign ethnic groups in mind and was to be seen as proof that the problem existed within the country, otherwise it would be totally abstract and have nothing to do with the potential for discrimination in Burundi.

50. Economic blockades had never had much effect in the past, and very often had a severely negative impact on the population, particularly the civilian population. He recognized that the problem between Hutus was Tutsis was not unique to Burundi; all States in the region were affected and none should evade its responsibilities towards the groups concerned. In that connection, the information available to the Committee was disturbing.

51. Mr. ABOUL-NASR associated himself with all of Mr. Wolfrum's concluding remarks and thanked the delegation of Burundi for its invitation to the Committee to send a member or a group to ascertain the situation there. He suggested that a formal invitation might be extended by way of a letter to the Committee through the United Nations High Commissioner for Human Rights.

52. On the question of the delegation's request for assistance from the Committee and for inclusion in its findings of an acknowledgement of the human suffering occasioned by the economic blockade of Burundi, he wondered whether the delegation could tell the Committee, if, as in the case of Iraq, statements had been issued by other United Nations organizations on the suffering caused by the economic blockade. If not, perhaps the State party might consider also appealing to other United Nations organizations, whose subsequent statements might provide a basis for the Committee's action.

53. Mr. NSANZE (Burundi) said that national reconciliation was the ultimate goal of a long and arduous process that should be initiated as soon as possible, but could not be achieved overnight.

54. The political situation was problematic and required a political solution. *It was true that ethnic groups did now* exist but their mode of existence was not compatible with the scientific, etymological and biological

definition of an ethnic group. There was no attempt by the delegation to minimize the recognized fact that they were political realities. On the contrary, their passion was explained by the very fact that they were artificial and not authentic. Their existence was an inescapable fact that had to be taken into account and a solution found for the problem of what he saw as "politico-ethnic groups", which were to be treated accordingly.

55. He agreed entirely with the comment that the trial of 80 soldiers did not solve the problem of past massacres, saying that perpetrators of such crimes, regardless of their ethnic origin, should be brought to trial. The situation had not been addressed adequately and he had been informed that there were 6,000 case files on alleged mass killings, so the problem had not been forgotten.

56. He was unaware of the case of Stanislas Mashini, a member of the Twa ethnic group, but would request further information.

57. The delegation of Burundi agreed wholeheartedly with the Committee that ethnicity should not be institutionalized. As to whether there was discrimination in education and whether Hutus were being victimized through the system, he explained that prior to Burundi's accession to independence, education was provided by white European missionaries. Any blame for subsequent discrimination in education should therefore be laid at their door. During the colonial era, a school had been established for the education of the princely and royal caste which had never identified itself with either Tutsis or Hutus. After the dissolution of the caste, its members had alternated between association with the Tutsis and the Hutus depending on which of the groups had held political power. After independence the schools had still been run by the clergy and missionaries until the accession of President Bagaza to power but even then there had been no discrimination whatsoever between Tutsis and Hutus. However, during the Bagaza regime a system designed to discriminate in favour of Tutsis had been developed - and that was indeed one of the reasons for the overthrow of that regime. The successive regimes in Burundi were, therefore, not responsible for discrimination in schools. Such discrimination no longer existed. If the Committee sent a delegation to Burundi it would be a perfect opportunity to determine the true situation.

58. Addressing the point made by Mr. Wolfrum that the regroupment camps were under military, police or militia control, he said that Mr. Wolfrum seemed to have missed the point that many centres for displaced persons had been formed spontaneously during the tragic events over the previous four-five years and they had included both Tutsis and Hutus. It was true that under the initiative of the current Government, the population had been regrouped in some zones. He challenged the Committee, through the proposed delegation, to ascertain whether there had been any instances whatsoever of regrouped persons being shot by members of the police or the military. No Government could dare perpetrate such acts. There were many international observers on site; while it was true that many of the organizations to which they belonged considered that the regroupment camps restricted the human rights of the camp-dwellers, the Government considered that regroupment was a temporary measure and was the

lesser of two evils. Furthermore, the presence of the army was to ensure that the people in the camps did not fall prey to armed Tutsi and Hutu bandits as well as rebels who were responsible for many atrocities, mostly against Hutus.

59. In response to Mr. Wolfrum's query about the treatment of refugees from other countries, he concluded by saying that he was unaware of any mistreatment. In fact, traditionally, Burundi had been a haven for refugees from other countries in the Great Lakes region. He invited the Committee to furnish his delegation with specific information of any mistreatment of such refugees so that corrective action could be taken.

60. Mr. ABOUL-NASR noted that Burundi was reporting to the Committee for the first time. Referring to Mr. Wolfrum's summing up, he said that the fact that there was still disagreement was not to be construed as an accusation of the State party. On the contrary, the aim was to ascertain the implementation of the Convention, and questions, such as those on education, had been raised with Burundi in the same way as they were with all other States parties in an endeavour to stress the importance of education in eliminating discrimination. The Committee wished to assist States parties in implementing the Convention and in that regard, respected the points of view of States parties and looked forward to reciprocity from them.

61. He invited the delegation of Burundi to review the Committee's consideration of the reports of other States parties which would reveal that the Committee had been very circumspect and cooperative in its consideration of the report from Burundi in comparison with its characteristically critical approach. He hoped that his explanation would allay any feelings that the delegation of Burundi might have had that the Committee was criticizing its country.

62. The CHAIRMAN regretted that there had not been an opportunity to brief the delegation on the Committee's procedure. The Committee welcomed further dialogue with the delegation and looked forward to reading the remaining points in the next report.

63. Mr. NSANZE (Burundi) assured the Committee that at no time had his delegation considered that the Committee had been levelling accusations or criticism at his delegation, Government or country. On the contrary, the Committee had been seeking to elicit facts and to propose solutions based on such facts. His delegation's statements had been prompted by a need to give its views and clarify information on some situations, thereby avoiding any ambiguity and laying the ground for positive and productive dialogue. He assured the Committee of his familiarity with the Convention and the Committee's work.

64. He agreed with Mr. Aboul-Nasr's suggestion about a statement on the suffering caused by the economic blockade and said that a comprehensive statement would be issued soon to address the problem of what he saw as the worst sanctions ever to be imposed on any State in the history of the international community.

65. Mr. WOLFRUM endorsed Mr. Aboul-Nasr's explanation of the Committee's approach and stressed the Committee's commitment to ongoing dialogue. To that end, he reminded the delegation of the importance of sending a formal request to the High Commissioner for Human Rights to entrust one or more members of the Committee with a mission to Burundi, as Mr. Aboul-Nasr had suggested. Without a formal request there could be no decision. There would also be a need to send a separate request for technical assistance.

66. In conclusion, he hoped that the consideration of the next report and the ensuing dialogue would be constructive and engaged with a Committee in possession of first-hand information.

67. The CHAIRMAN thanked the delegation of Burundi for its attendance in spite of difficulties and its demonstration of the State party's commitment to dialogue in a bid to improve the implementation of the Convention in Burundi.

The meeting rose at 12.55 p.m.

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the Elimination
of all Forms of
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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE 1240th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 20 August 1997, at 3 p.m.

Chairman: Mr. BANTON

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CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Draft concluding observations concerning the twelfth periodic report of Sweden

Draft concluding observations concerning the eleventh to fourteenth periodic reports of Argentina

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GE.97-18054 (E)

PREVENTION OF RACIAL DISCRIMINATION, EARLY WARNING AND URGENT PROCEDURES (agenda item 4) (continued)

Draft declaration concerning the Democratic Republic of the Congo (document distributed at the meeting in English only: CERD/C/51/Misc.39/Rev.1)

1. The CHAIRMAN invited the Committee to consider the document paragraph by paragraph.

Paragraph 1

2. Mr. WOLFRUM stressed that the document under consideration was not so much a set of draft concluding observations as a draft declaration or set of observations. Some amendments would have to be made to it. He proposed that paragraph 1 should be amended to read: "The concluding observations adopted by the Committee on 21 August 1996 ...".

3. Paragraph 1, as amended, was adopted.

Paragraph 2

4. Mr. WOLFRUM pointed out a typographical error in the quotation in the final sentence; the correct version was "reliable indications that persons". At Mr. Shahi's request, he proposed that the first sentence of the paragraph should be amended to read: "The Committee is disturbed by the reports of massacres and other great human rights violations, including", and the words "and crimes against humanity" should be inserted after the words "humanitarian law" at the end of the section quoted from paragraph 95 of the joint mission's report.

5. Following an exchange of views in which Mr. ABOUL-NASR, Mr. WOLFRUM, Mr. DIACONU and Mr. SHAHI took part, the CHAIRMAN invited the Committee to consider separately the two amendments proposed by Mr. Wolfrum on behalf of Mr. Shahi.

6. It was so decided.

Proposed amendment to the first sentence of paragraph 2

7. The proposed amendment to the first sentence of paragraph 2 was adopted.

Proposed amendment to the last sentence of paragraph 2

8. Mr. DIACONU, Mr. ABOUL-NASR and Mr. SHERIFIS said they were willing to agree to the proposed amendment provided the precise terms were taken from the report of the joint mission and were placed in square brackets.

9. Mr. WOLFRUM confirmed that paragraph 95 of the report contained the following sentence: "Such crimes seem to be sufficiently massive and systematic to be characterized as crimes against humanity".

10. The proposed amendment to the last sentence of paragraph 2 was adopted.

11. Mr. GARVALOV pointed out that in the fifth line of the paragraph "Eastern Zaire" should be replaced by "eastern part of Zaire", even though the next mention of that area, three lines further down, could not be amended as it was a quotation.

12. The amendment was adopted.

13. Paragraph 2, as orally amended, was adopted.

Paragraph 3

14. Mr. SHAHI expressed surprise that the paragraph did not mention the 140,000 or so refugees who had gone missing, according to the report of the joint mission (A/51/942, para. 43).

15. Mr. WOLFRUM thought that it was dangerous to refer to numbers without being certain of their accuracy. The Office of the United Nations High Commissioner for Refugees had in fact estimated the number of missing at 240,000. It would, in his view, be preferable to use a more vague expression such as "large numbers".

16. The CHAIRMAN proposed that the wording of paragraph 3 should be amended to read: "The Committee is alarmed about reports of the disappearance of very large numbers of refugees in the eastern part of the country and about reports of ongoing human rights violations".

17. Paragraph 3, as amended, was adopted.

Paragraph 4

18. In the light of observations made by Mr. ABOUL-NASR, Mr. WOLFRUM, Mr. SHAHI, Mr. GARVALOV and Mr. SHERIFIS, Mr. de GOUTTES proposed that paragraph 4 should be reworded to read: "Le Comité exprime le souhait que la nouvelle équipe d'enquête instituée par le Secrétaire général de l'Organisation des Nations Unies puisse agir efficacement et se félicite que le Gouvernement de la République démocratique du Congo ait accepté de coopérer avec cette équipe".

19. The CHAIRMAN read out the following English version of the text: "The Committee hopes that the new investigating team established by the Secretary-General of the United Nations may be able to act effectively and welcomes the readiness of the Democratic Republic of the Congo to cooperate with this team".

20. Paragraph 4, as amended, was adopted.

Paragraph 5

21. The CHAIRMAN said that the word "this" should be inserted after the word "discuss" in the third line of the paragraph.

22. Paragraph 5 was adopted with that drafting amendment.

23. The draft declaration of the Committee concerning the Democratic Republic of the Congo, as orally amended, was adopted.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations concerning the twelfth periodic report of Sweden (document distributed at the meeting in English only: CERD/C/51/Misc.23, future CERD/C/304/Add.37, future CERD/C/51/CRP.1/Add.15)

24. Mr. YUTZIS drew the attention of Committee members to paragraph 7, which mentioned the new refugee legislation. He was particularly concerned about one category of refugees - those who had come in large numbers from Peru and from Bosnia and Herzegovina to request asylum in Sweden, and who could as members of minorities benefit from that legislation. He pointed out that paragraph 21 had been the subject of much comment; in his view, it was important to stress that the Samis should be able to use their language other than in private life, even if in Sweden they were less numerous than in other Nordic countries.

Paragraph 1

25. Paragraph 1 was adopted.

Paragraph 2

26. Mr. GARVALOV proposed that the adjective "competent", which was rather unusual, should be deleted before the word "delegation".

27. Paragraph 2, as amended, was adopted.

Paragraph 3

28. Paragraph 3 was adopted.

Paragraph 4

29. Mr. ABOUL-NASR proposed that the words "limited number" should be deleted.

30. Paragraph 4, as amended, was adopted.

Paragraph 5

31. Paragraph 5 was adopted.

Paragraph 6

32. Mr. ABOUL-NASR said he doubted whether it was necessary to mention among the positive aspects of the situation in Sweden the fact that the Act in question was ineffective.

33. Mr. GARVALOV proposed, in order to justify the paragraph's placement in the "Positive aspects" section, emphasizing the praiseworthy intention of the State party to review the Act. The wording should be amended to read:

"It is noted that the State party intends to review the Act against Ethnic Discrimination of 1994 because it is not having the desired effect".

34. Mr. SHERIFIS said he was not convinced that the new wording would cast a more favourable light on the Swedish Government's intentions.

35. The CHAIRMAN suggested that Mr. Garvalov's wording should be adopted, as it was well balanced.

36. It was so decided.

37. Paragraph 6, as amended, was adopted.

Paragraph 7

38. Mr. YUTZIS proposed that paragraph 7 should be replaced by the following text: "The Committee welcomes the adoption of a new law which covers not only persons who are within the 1951 Convention relating to the Status of Refugees, but also persons with a well-founded fear of the death penalty or who are subject to torture, and aliens in need of protection due to armed conflicts". He pointed out that, as the delegation had indicated, the Act in question had been adopted after Sweden had already prepared its twelfth report.

39. The CHAIRMAN considered that the Committee should not adopt that new wording without having before it the text of the Act concerned. He therefore suggested that the Committee should defer consideration of that paragraph.

40. It was so decided.

Paragraph 8

41. Mr. ABOUL-NASR considered that it was inappropriate for the Committee in its concluding observations to refer to the Swedish Co-ordinating Committee for the European Year against Racism. It was not the Committee's duty to take a position on activities of concern only to Europe.

42. Mr. SHAHI felt that it was not wrong for the Committee to welcome the creation of that committee as the Committee was concerned about the spread of xenophobia and racism in Europe.

43. Mr. GARVALOV, supported by Mr. de GOUTTES, said that the Council of Europe had launched the European Year against Racism as part of the Third Decade to Combat Racism and Racial Discrimination declared by the United Nations.

44. Mr. DIACONU recalled that the same problem had arisen during consideration of the draft concluding observations concerning Denmark, and that it had been resolved by adopting the following formula: "as well as the active participation of the State party in international efforts to combat racism".

45. The CHAIRMAN suggested that the Committee should use that wording in the case of Sweden.

46. It was so decided.

47. Paragraph 8, as amended, was adopted. Paragraph 9

48. Following an exchange of views between Mr. ABOUL-NASR, who thought the creation of a separate parliament for a minority group could hardly be considered a positive step, and Mr. WOLFRUM, Mr. YUTZIS, Mr. de GOUTTES and Mr. RECHETOV, who noted with satisfaction that the Samis, a group too small to be represented in the Swedish parliament, had the power to decide and manage their own affairs, the CHAIRMAN suggested that the Committee should adopt paragraph 9 as currently worded.

49. It was so decided.

50. Paragraph 9 was adopted.

Paragraph 10

51. Mr. GARVALOV said he was not sure that the wording of paragraph 10 was a faithful reflection of reality. He recalled that the Swedish Government had merely indicated in paragraph 8 of its periodic report that it had decided to appoint a committee to examine the question whether Sweden should ratify the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities, and to study the procedures for their possible ratification. Since the State party had not yet taken a decision on that subject, it would no doubt be premature for the Committee to express satisfaction in that regard.

52. Mr. SHAHI agreed that it would be premature.

53. Mr. YUTZIS emphasized that the aim of paragraph 10 was to highlight the Swedish Government's initiative and, in so doing, urge it to ratify the European Charter and the Framework Convention.

54. Mr. GARVALOV pointed out that five member States of the Council of Europe had not ratified the Charter or the Framework Convention. To the best of his knowledge, the Committee had not congratulated those that had. He therefore saw no reason why the simple fact of having established a committee to consider possible ratification of those instruments should be considered as a positive aspect of the Swedish Government's activity.

55. Mr. ABOUL-NASR considered that the subject addressed in paragraph 10 fell within the purview of the European Union and that there was thus no reason to include the paragraph.

56. Mrs. ZOU believed that paragraph 10 should be deleted, as Sweden had not yet taken the decision to ratify the Charter and the Framework Convention. It was thus too early for the Committee to express satisfaction on that subject.

57. Mr. YUTZIS felt that if the decision was taken to delete the paragraph, it would be necessary to adopt another paragraph in which the Committee invited the Swedish Government to ratify the European Charter and the Framework Convention, since there was indeed a link between those instruments and the Convention.

58. Mr. DIACONU said he thought the matter was not particularly important, and that it was therefore not absolutely necessary to bring it up in the Committee's conclusions.

59. The CHAIRMAN suggested that paragraph 10 should be deleted.

60. Paragraph 10 was deleted.

Paragraph 11 (new paragraph 10)

61. Mr. RECHETOV proposed that a punctuation mark should be inserted after the words "municipal elections".

62. Paragraph 11 (new paragraph 10), as amended, was adopted.

Paragraph 12 (new paragraph 11)

63. Mr. RECHETOV proposed that at the end of the paragraph the words "which may be considered as exemplary" should be deleted.

64. Mr. WOLFRUM proposed that the words "well-devised" before "system of education" should be deleted.

65. Paragraph 12 (new paragraph 11), as amended, was adopted.

Paragraph 13 (new paragraph 12)

66. Mr. WOLFRUM pointed out that the Tornedal Finns and the Roma were indigenous peoples, and recalled that they quite rightly rejected being referred to as minorities. Since observations appropriate to the indigenous populations of Sweden appeared in other parts of the concluding observations, he did not think the paragraph was necessary.

67. Mr. DIACONU said he did not understand why the Committee should invite Sweden in particular to apply uniform criteria with regard to indigenous peoples. He too felt that the paragraph should be deleted.

68. Mr. SHERIFIS and the CHAIRMAN suggested that the paragraph should be deleted.

69. Paragraph 13 was deleted.

Paragraph 14 (new paragraph 12)

70. Mr. RECHETOV, supported by Mr. van BOVEN, said that the paragraph was ambiguous as it could be interpreted as meaning that the Committee took

exception to the research project concerning violence and counter-violence. It was the findings of that research project that the Committee found disturbing.

71. Mr. GARVALOV proposed that, to resolve the problem, the words "which started" should be replaced by "on the basis of".

72. Mr. ABOUL-NASR proposed that the beginning of the paragraph should express the idea that the Committee was concerned about the increase in racially motivated crimes.

73. The CHAIRMAN suggested that the existing paragraph should be replaced by the following text: "The Committee expresses concern that crimes with racial motives have increased, as found by a research project conducted by the National Council for Crime Prevention."

74. Paragraph 14 (new paragraph 12), as amended, was adopted.

Paragraph 15 (new paragraph 13)

75. Mr. ABOUL-NASR said he did not understand why the Committee should express concern about the fact that many Roma were dependent on social welfare benefits. Was it not normal that they should receive financial assistance to which they were entitled as unemployed people?

76. Mr. WOLFRUM explained that the aim of the text was to emphasize that the Roma could not find employment because of a lack of appropriate training and education, and thus had to rely on public assistance. That was the reason for concern.

77. In response to Mr. Aboul-Nasr's comment, Mr. van BOVEN proposed that the words "In addition" should be replaced by "As a result".

78. Paragraph 15 (new paragraph 13), as amended, was adopted.

Paragraph 16 (new paragraph 14)

79. Mr. GARVALOV said the two sentences in the paragraph should be linked, as they had the same purpose.

80. The CHAIRMAN suggested that the text should be replaced by: "Concern is expressed that existing legislation does not fully implement all components of article 4 of the Convention."

81. Paragraph 16 (new paragraph 14), as amended, was adopted.

Paragraph 17 (new paragraph 15)

82. Mr. ABOUL-NASR observed that the paragraph under consideration might appear to contradict paragraph 11 (new paragraph 10), in which the Committee noted with satisfaction that the Swedish Government gave non-nationals the right to vote and stand for election in municipal elections.

83. Mr. SHERIFIS recalled that the Swedish delegation had provided further information on the subject. It was thus clear that paragraphs 11 and 17 (new paragraphs 10 and 15) dealt with the same question from two different angles. He proposed that the word "aliens" should be replaced by "non-nationals".

84. Mr. SHAHI, noting that the conclusions were addressed to the State party, emphasized that the Committee could hardly hold the State party accountable for the fact that non-nationals did not take part in local elections, while the State itself had given them the right to do so. In such circumstances, the most the Committee could do would be to request that it encourage greater participation by non-nationals in local elections.

85. Mr. RECHETOV proposed that the two paragraphs should be combined with the following wording: "Non-nationals have the right to participate in municipal elections. Their participation is declining." He explained that that text would make it possible for the Committee to avoid expressing concern about the situation and to highlight the positive aspects, while steering clear of the somewhat laudatory tone of paragraph 11 (new paragraph 10).

86. Mr. WOLFRUM said that he was above all concerned about the obvious lack of interest in local elections among non-nationals. He believed that the Committee's concluding observations were addressed to them as well, and recalled that the Committee had included similar recommendations in its observations concerning the periodic report of Denmark. In his opinion, therefore, paragraph 11 (new paragraph 10) should remain unchanged as a sign of the Committee's satisfaction.

87. Mr. YUTZIS recalled that the State party had itself expressed concern and perplexity at the lack of interest among non-nationals in local elections. In his opinion, the Committee expressed its concern not only to the State party, but also to the non-nationals who did not exercise their right to vote.

88. The CHAIRMAN said that if his memory served him correctly, according to the explanations given by the State party, the composition of the non-national population had evolved over time. Unlike the first immigrants who had wanted to integrate and quickly requested naturalization, the later arrivals were mostly refugees who intended to return to their countries. Consequently, they were not so interested in local elections, especially since such elections often took place at the same time as national elections, in which they were not entitled to vote. With the situation thus clarified, the Chairman suggested that the Committee should adopt paragraph 17 (new paragraph 15), with the word "aliens" replaced by the word "non-nationals".

89. Paragraph 17 (new paragraph 15), as amended, was adopted.

Paragraphs 18 and 19 (new paragraphs 16 and 17)

90. Mrs. ZOU proposed that the two paragraphs, which dealt with very closely related subjects, should be combined in a new text with the following wording: "Concern is expressed about activities such as dissemination by various organizations in the State party of recorded music containing texts promoting hatred of minorities, based on ideas or theories of racial superiority."

91. Following an exchange of views in which Mr. YUTZIS, Mr. RECHETOV, and Mr. ABOUL-NASR took part, the CHAIRMAN suggested that the two paragraphs under consideration should be combined into a single text, to read: "Concern is also expressed at the activities based on ideas or theories of racial superiority of various organizations and individuals, and over the increasing dissemination of recorded music, the lyrics of which show hatred of minorities."

92. It was so decided.

93. Paragraphs 18 and 19 (new paragraph 16) were adopted.

Paragraph 20 (new paragraph 17)

94. Paragraph 20 (new paragraph 17) was adopted.

Paragraph 20 bis (new paragraph 18)

95. Mr. de GOUTTES proposed that paragraph 20 bis should be inserted after paragraph 20, with the following wording: "The Committee recommends that the State party should submit in its next report information on the number of complaints, judgements and awards of damages relating to acts of racism, in all their forms."

96. Paragraph 20 bis (new paragraph 18) was adopted.

Paragraph 21 (new paragraph 19)

97. Mr. DIACONU said that the Committee should specify what it meant by "public life". Did the terms encompass the courts, public bodies and parliament? He thought the Committee should not recommend that the State party take a measure amounting to the institution of bilingualism. Apart from the fact that its application would be extremely costly, such a recommendation could set a precedent and be considered as interference in the internal affairs of the State.

98. Mr. SHERIFIS proposed that the words "in public life" should be deleted.

99. Paragraph 21 (new paragraph 19), as amended, was adopted.

Paragraph 22 (new paragraph 20)

100. Mr. ABOUL-NASR considered that the Committee was going too far in recommending a policy of integration of immigrants, refugees and ethnic minorities. Did such groups themselves desire integration at all levels?

101. Mr. WOLFRUM thought it would be more judicious to refer to the integration of those groups in economic and social life.

102. Mr. SHAHI referred to paragraph 11 of Sweden's report, which stated that in that country integration was not synonymous with assimilation, but was aimed at providing equal opportunities. He proposed instead to recommend to the State party that it should attempt to ensure equality of opportunity.

103. Mr. GARVALOV pointed out that the report did not specify that integration was aimed at ensuring equal opportunity in the economic and social sense.

104. The CHAIRMAN suggested that the text of paragraph 22 should be amended to read: "The Committee recommends that the policy of integration promoting equality in economic and social life for immigrants, refugees and ethnic minorities be reinforced by appropriate legislative, administrative and other measures."

105. It was so decided.

106. Paragraph 22 (new paragraph 20), as amended, was adopted.

Paragraph 23 (new paragraph 21)

107. Mr. SHERIFIS proposed that the following text should be added at the end of the paragraph: "Furthermore, the twelfth periodic report should be widely disseminated, as well as the conclusions and recommendations adopted by the Committee thereon."

108. Paragraph 23 (new paragraph 21), as amended, was adopted.

Paragraph 23 bis

109. Mr. YUTZIS proposed that after paragraph 23 a new paragraph should be added, in which the Committee would recommend that Sweden should ratify the European Charter for Regional and Minority Languages and the Framework Convention for the Protection of National Minorities.

110. Mr. DIACONU pointed out that it was not customary for the Committee to recommend that States parties, which were sovereign entities, should ratify a particular international instrument, even if, as in the case in question, the sphere of application of the instruments concerned overlapped with that of the Convention.

111. Mr. van BOVEN agreed with Mr. Diaconu. At most, the Committee could welcome ratification by a State party of an international instrument which went along the same lines as the Convention.

112. Mr. YUTZIS begged to differ from Mr. van Boven and Mr. Diaconu. The proposed text was based on the fact that the Swedish Government had reported that it had set up a Committee to examine the question of ratification of those instruments.

113. Mr. GARVALOV felt it was clear from the report that the State party was merely considering the possibility of ratifying those instruments. It would thus be inappropriate to recommend that it should do so at the present time.

114. The proposal to add a paragraph 23 bis was rejected.

Paragraph 24 (new paragraph 22)

115. Paragraph 24 (new paragraph 22) was adopted.

116. The draft concluding observations of the Committee concerning the twelfth periodic report of Sweden, as orally amended, were adopted, with the exception of paragraph 7, consideration of which was deferred.

Draft concluding observations concerning the eleventh to fourteenth periodic reports of Argentina (document distributed at the meeting in French only: CERD/C/51/Misc.26, future CERD/C/304/Add.39, future CERD/C/CRP.1/Add.22)

117. The CHAIRMAN invited the Committee to consider the draft paragraph by paragraph, on the understanding that it might be necessary, in the light of the discussion, to revert to certain paragraphs which had already been adopted.

Paragraphs 1 and 2

118. Paragraphs 1 and 2 were adopted.

Paragraph 3

119. Mr. RECHETOV proposed that the word "autres" (others) should be deleted.

120. Paragraph 3, as amended, was adopted.

Paragraph 4

121. Paragraph 4 was adopted.

Paragraph 5

122. Mr. RECHETOV proposed that the word "très" (very) should be deleted.

123. Paragraph 5, as amended, was adopted.

Paragraph 6

124. Paragraph 6 was adopted.

Paragraph 7

125. Mr. de GOUTTES proposed that the bracketed references to articles of the Argentine Constitution should be deleted.

126. Paragraph 7, as amended, was adopted.

Paragraph 8

127. Paragraph 8 was adopted.

Paragraph 9

128. Mr. de GOUTTES pointed out that the paragraph took account of Mr. Diaconu's suggestions.

129. Paragraph 9 was adopted.

Paragraph 10

130. Mr. de GOUTTES said that the paragraph again took account of Mr. Diaconu's suggestions.

131. Mr. WOLFRUM proposed that the word "domaniales" (ancestral) should be deleted so as to make it clear that the lands in question were subject to a special legal regime.

132. Paragraph 10, as amended, was adopted.

Paragraph 11

133. Mr. RECHETOV observed that measures taken against Nazi criminals had no direct relation with the Convention and that it was perhaps inappropriate to mention them in the text.

134. Mr. de GOUTTES said that the paragraph reflected paragraph 27 of Argentina's periodic report.

135. Mr. AROUL-NASR said he did not understand why the Committee should mention Nazism, as opposed to apartheid, in all draft concluding observations. He therefore had reservations about the paragraph.

136. Mr. van BOVEN considered that there were three reasons for maintaining the paragraph. First, the Argentine delegation had itself emphasized the point in question. Secondly, Nazi activities still remained synonymous with the most vicious form of racism. And thirdly, it should be recalled that the Convention had been drawn up in the early 1960s to fight not only apartheid, but also the resurgence of Nazi doctrines.

137. Mr. WOLFRUM agreed with that view.

138. Paragraph 11 was adopted.

Paragraph 12

139. Paragraph 12 was adopted.

The meeting rose at 6 p.m.

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of all Forms of
Racial Discrimination

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Fifty-first session

SUMMARY RECORD OF THE 1241st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 21 August 1997, at 10 a.m.

Chairman: Mr. BANTON

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Draft concluding observations concerning the initial, second and third periodic reports of the former Yugoslav Republic of Macedonia

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GE.97-18070 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations concerning the eleventh to fourteenth periodic reports of Argentina (continued) (CERD/C/51/Misc.26, future CERD/C/304/Add.39)

1. The CHAIRMAN invited the Committee to resume its consideration of the concluding observations on the periodic reports of Argentina, on the understanding that some paragraphs previously considered might require rewording in the light of the subsequent discussion.

Paragraph 15

2. Mr. de GOUTTES (Country Rapporteur) said that the phrase "other minorities" should be replaced by "minorities", as had been done in earlier paragraphs.

Paragraph 16

3. Mr. van BOVEN said that he understood the correct English translation of the phrase "terres domaniales" to be "ancestral lands". In that case, it had been a mistake to delete the word "ancestral" ("domaniale") in paragraph 10, and it should be restored.

4. Mr. VALENCIA RODRIGUEZ said that the term "ancestral" denoted lands which were under the control of indigenous peoples; "ancestral lands" ("tierras ancestrales" in Spanish) was therefore the correct term.

5. Mr. GARVALOV pointed out that the official documents provided by the Government of the Philippines during the consideration of its periodic report had referred to "ancestral lands/domains". Apparently, the term "lands" was associated with claims made by individuals, while "domains" was associated with community lands.

6. Following comments by the CHAIRMAN and Mr. WOLFRUM and in the light of Mr. Garvalov's comment, Mr. de GOUTTES suggested that the phrase "ancestral lands and domains" should be used in both paragraph 10 and paragraph 16.

Paragraph 17

7. Mr. de GOUTTES said that Mr. Valencia Rodriguez had suggested including a specific reference to the relevant article of the Convention, namely article 5.

8. Mr. SHERIFIS said that the first sentence of the paragraph expressed the Committee's satisfaction and should therefore be included in section C, "Positive aspects". He suggested that the second sentence should be moved to section E, "Suggestions and recommendations".

9. Mr. ABOUL-NASR asked whether the situation of foreigners and immigrants, which was the subject of the paragraph, came within the scope of the Convention at all.

10. The CHAIRMAN said that the problem raised by Mr. Sherifis would also apply to paragraph 18. Could the problem be solved by saying "non-nationals" rather than "immigrants"?

11. Mr. ABOUL-NASR did not understand why concern had been expressed about Argentina's treatment of immigrants from the MERCOSUR countries as compared with others. Many countries treated immigrants from their regional organization, such as the European Union or the League of Arab States, more favourably than other immigrants.

12. The CHAIRMAN suggested that a new paragraph should be inserted after the existing paragraph 10, to read: "In connection with article 5 of the Convention, the conclusion of a bilateral accord with Bolivia to regularize the position of some 500,000 Bolivians who have been in an irregular position in Argentina and the regularization of the situation of 250,000 foreigners in an irregular position in Argentina under decree No. 1033/92 are noted with satisfaction".

13. Mr. de GOUTTES said that the Committee very often considered the situation of refugees and immigrants, and he saw no contradiction with the Convention.

14. If the new paragraph read out by the Chairman was adopted, paragraph 17 would then read: "More specific information is needed about the legal regime currently applicable to immigrants, and particularly about the distinction between immigrants from member States of MERCOSUR and others".

15. The CHAIRMAN suggested that a reference might be included to the Committee's General Recommendation XI on non-citizens

16. In response to a comment by Mr. ABOUL-NASR, Mr. de GOUTTES suggested that the second sentence of the paragraph - and therefore paragraph 17 as a whole - should be deleted, since it went into too much detail.

17. The CHAIRMAN concluded that the Committee seemed to be agreed that the first sentence of paragraph 17, with the proposed amendments, should become a new paragraph after the present paragraph 10, and that the second sentence of paragraph 17 should be deleted.

18. It was so decided.

Paragraph 18

19. Mr. de GOUTTES suggested that the paragraph should be amended to read: "Although [...] are considered positive, the lack of information on the situation of these refugees is noted with regret".

20. Mr. VALENCIA RODRIGUEZ said that, as in the former paragraph 17, a reference to a particular article of the Convention was needed. He felt that

the first part of the sentence belonged in section C, "Positive aspects". The second half of the sentence was superfluous, since there was a request for more information about the situation of refugees in paragraph 26.

21. Mr. SHERIFIS agreed with those comments, but in that case paragraph 26 should be amended to read: "... information on the number and situation of refugees ...".

22. Mr. de GOUTTES proposed that the first part of paragraph 18 should be moved to section C, "Positive aspects", just before the present paragraph 11, with the following wording: "The establishment of the Refugee Eligibility Committee and its close cooperation with the Office of the United Nations High Commissioner for Refugees are considered positive". The rest of paragraph 18 would then be deleted.

Paragraph 19

23. Mr. ABOUL-NASR said that the phrase "it is noted with concern" was much too strong: indeed, it was tantamount to accusing the Argentine Government of being an accomplice in anti-Semitic attacks. The paragraph referred to complaints about the slow pace of the investigations into those acts without saying who had made the complaints.

24. Mr. van BOVEN suggested that a reference should be included to the Committee's decision 3 (45), adopted at its forty-fifth session on 16 August 1994. The Committee had specifically asked for information about the investigations to be included in the periodic report, but the Argentine Government had not done so. The Committee might even express its regret that its request had not yet been complied with.

25. Mr. SHERIFIS pointed out that, in paragraph 27, the Committee called upon the Argentine Government to expedite the investigations. He therefore felt that paragraph 19 could be deleted altogether.

26. Mr. de GOUTTES said that it was inevitable that material in section D of the concluding observations should overlap with that in section E, since the former expressed a concern of the Committee and the latter showed what the Committee wanted States parties to do. He suggested the following revised version of paragraph 19: "With reference to decision 3 (45), adopted by the Committee on 16 August 1994, it is noted with concern that the investigations into the anti-Semitic attacks of 1992 and 1994 have still not been completed".

27. Mr. RECHETOV said that there was not necessarily any need to repeat the same material in different sections of the concluding observations. He felt that the best solution was Mr. Sherifis', namely to delete paragraph 18 altogether. Paragraph 27 should then be amended to read: "... articles 5 (a) and 6 of the Convention and the Committee's decision 3 (45) of 16 August 1994".

28. Mr. WOLFRUM disagreed with the suggestion made by Mr. Sherifis and supported by Mr. Rechetov. The Committee had raised the issue orally and had

received no reply, and it had also adopted a decision. The behaviour of the State party in that connection was a matter of concern which he wished to express in the way proposed by Mr. de Gouttes.

29. The CHAIRMAN observed that the delegation had been reminded of the Committee's decision prior to its meeting with the Committee.

30. Mr. ABOUL-NASR said that the Committee should not include references in each part of its reports to anti-Semitism and anti-Nazism. It was a campaign which had been going on for some time and he did not agree with it. He totally disagreed with the approach taken by Mr. de Gouttes and Mr. Wolfrum, but as a compromise could accept the suggestion made by Mr. Rechetov on the basis of Mr. Sherifis' proposal.

31. Mr. SHERIFIS said that the concern expressed by Mr. van Boven could be met by a slight change to his earlier proposal: paragraph 19 should be deleted on account of the divergence of views and paragraph 27 should start with the phrase "The Committee, recalling its decision 3 (45) of 1994, adopted by the Committee on 16 August 1994, invites the State party ...".

32. Mr. SHAHI fully supported that proposal.

33. Mr. de GOUTTES (Country Rapporteur) pointed out that that proposal would make the subject a recommendation instead of a subject of concern. If the Committee agreed to that change, he would not object.

34. The CHAIRMAN said he took it that the Committee wished to adopt the amendment proposed by Mr. Sherifis.

Paragraph 21

35. Mr. de GOUTTES (Country Rapporteur) pointed out that the reference to article 7 of the Convention had been included to incorporate the proposal of Mr. Valencia Rodríguez.

36. Mr. SHERIFIS said that the expression of satisfaction in the first sentence should be moved to the positive aspects in section C.

37. Mr. ABOUL-NASR supported that proposal. As far as section D was concerned, he noted that the Committee had expressed concern on the implementation of every article of the Convention, apart from articles 2 and 3.

38. Mr. GARVALOV said that a balance between expressions of satisfaction and of concern could easily be achieved by first taking note of the satisfactory situations and then expressing concern.

39. It was particularly important that educational programmes covered racial discrimination specifically as well as human rights. He therefore suggested that a reference to the prevention of racial discrimination should be inserted into paragraph 21 after "human rights", in line with the recommendation in paragraph 29.

40. Mr. SHAHI said that if the first sentence of paragraph 21 was to be moved to section C, the second sentence might then more appropriately be placed in paragraph 29.

41. Mr. de GOUTTES (Country Rapporteur) said that in the light of the proposals which had been made, the first sentence, amended by the insertion of the words "and the prevention of racial discrimination" after "human rights", should be moved to section C as a new paragraph after paragraph 11. The reference to article 7 of the Convention was unnecessary in that section and could therefore be deleted. The last sentence of paragraph 21 would then be incorporated into paragraph 29.

Paragraph 23

42. Mr. RECHETOV said that the word "other" (autres) before the words "ethnic minorities" should be deleted.

Paragraph 25

43. Mr. WOLFRUM said that as the Committee had now adopted a general recommendation concerning indigenous peoples, it would be appropriate to include a reference to it at the end of the paragraph, to read: "In this context, the attention of the State party is drawn to the Committee's General Recommendation concerning Indigenous Peoples"; giving the exact title.

44. Mr. RECHETOV suggested that reference should also be made to the judicial authorities, given that legal provisions had been mentioned.

45. Mr. de GOUTTES (Country Rapporteur) said that in the light of that suggestion, the words "administrative and legal" might best be deleted and the words "including the judicial authorities" inserted after "local and federal authorities".

46. The CHAIRMAN said that he took it that the Committee wished to adopt the paragraph as amended.

Paragraph 26

47. Mr. de GOUTTES (Country Rapporteur) reminded the Committee of Mr. Sherifis' proposal to insert the words "the number and" after "information on".

Paragraph 27

48. Mr. de GOUTTES (Country Rapporteur) pointed out that the paragraph would start with the words "The Committee, recalling its decision No. 3 (45) of 16 August 1994 ..." in line with the amendment proposed by Mr. Sherifis.

Paragraph 29

49. Mr. de GOUTTES (Country Rapporteur) said that the incorporation of the second sentence of paragraph 21 as suggested by Mr. Shahi would involve a long

list including police, military, lawyers, magistrates, teachers and pupils. It could be shortened, however, by using the expression "law enforcement officials" which covered the police, the military, lawyers and magistrates.

50. The CHAIRMAN said he took it that the Committee would prefer to leave paragraph 29 as it stood.

Paragraph 30

51. Mr. VALENCIA RODRIGUEZ suggested that the word "widely" (largement) was unnecessary and should therefore be deleted.

52. Mr. RECHETOV said that if the Committee did not lay emphasis on the wide dissemination of the documents, they would never reach the wider public at all.

53. Mr. van BOVEN pointed out that the text as it stood was a standard phrase; it should therefore remain unchanged.

Paragraph 33

54. Mr. de GOUTTES (Country Rapporteur) said that he had opted for requesting that the present report be updated as the State party's next report was due in a matter of months.

55. Mr. ABOUL-NASR said that it was unreasonable to ask for the report to be updated in view of the amount of information requested. Furthermore, having commended the delegation on its composition and taken note of its replies with satisfaction, the Committee had then criticized the extent to which every article of the Convention had been implemented. It should therefore consider whether its procedure could not be improved in some way in the future.

56. The CHAIRMAN said that those concerns could be discussed on the last afternoon of the session.

57. Mr. SHERIFIS said that Mr. Aboul-Nasr's concerns about Argentina's next report might be met if, instead of asking for the present report to be updated, the Committee were to ask for an updated report, using the formulation which it had agreed earlier in the session to insert in the reports of all States parties.

58. Mr. de GOUTTES (Country Rapporteur) said that in the light of that proposal, it would be sufficient to delete the words "of the present report" from the French text.

Paragraph 3

59. Mr. YUTZIS, reverting to paragraph 3, said that the paragraph as it stood contained an error which might discredit the Committee in Argentina when the report was disseminated. It was not true to say that the main victims of

unemployment and poverty were the members of the indigenous populations and other ethnic minorities. Those groups were among the main victims, but the main victims were the 70 per cent or more of the people, many of them from the middle classes, who lived in the urban periphery.

60. Mr. de GOUTTES (Country Rapporteur) said that the simplest solution would be to say that the main victims included the members of those groups (in the French version, "parmis les principales victimes figurent ...",) and to replace the words "of the other ethnic minorities" by "the ethnic minorities".

61. The draft concluding observations concerning the eleventh to fourteenth periodic reports of Argentina as a whole, as amended, were adopted.

Draft concluding observations concerning the initial, second and third periodic reports of the former Yugoslav Republic of Macedonia (CERD/C/51/Misc. 24, future CERD/C/304/Add.38)

62. Mr. RECHETOV (Country Rapporteur) said that suggestions by Mr. Wolfrum, Mr. Garvalov, Mr. Diaconu, Mr. van Boven and the Chairman, mainly of an editorial nature, had been incorporated into the draft text before the Committee.

Paragraph 2

63. Mr. ABOUL-NASR hailed the first sentence of the paragraph as a positive beginning and said he would have liked to see more of that kind of wording in other concluding observations.

Paragraph 3

64. Mr. RECHETOV proposed that the economic difficulties experienced by the State party should be described as "partly" resulting from hostilities in the Balkan region.

Paragraph 4

65. Mrs. SADIQ ALI, supported by Mr. van BOVEN, proposed the deletion of all the parentheses in the paragraph.

Paragraph 5

66. Mr. RECHETOV (Country Rapporteur) suggested that in the interest of clarity and conciseness, if paragraph 5 was accepted, paragraphs 18 and 19 should be deleted.

Paragraph 6

67. The CHAIRMAN, supported by Mr. GARVALOV, suggested the deletion of the word "quantitative".

Paragraph 9

68. Mr. WOLFRUM said that the word "the" should be inserted between "in" and "whole territory of the State party".

Paragraph 12

69. The CHAIRMAN suggested that "on indiscriminatory basis" be replaced by "on a non-discriminatory basis".

Paragraph 14

70. Mr. ABOUL-NASR said it was unnecessary to ask for information on whether the Convention was directly applicable before the domestic courts because he recalled a member of the delegation to have addressed the issue.

71. Mr. RECHETOV (Country Rapporteur) said that there was some information on the question in the report itself but he could not say that the Committee had come away with a clear impression that the Convention was applicable in the domestic courts as the report contained no reference to specific cases of application in the courts. If such cases were included in the next report, they could form a basis for constructive dialogue in the future. He suggested that "additional" should be inserted before "information" in the first sentence.

Paragraph 15

72. Mr. RECHETOV (Country Rapporteur), in reply to Mr. SHAHI's request for clarification of the use of the word "integrate", said that he agreed that the word might have certain negative connotations. The reasoning behind it, however, was that efforts should be made to ensure that, as in Kosovo, there should not be two separate educational systems.

73. He rejected the CHAIRMAN's suggestion to reword the sentence to say "... to provide for different ethnic minorities within a unitary education system ...".

74. Mr. WOLFRUM said that "integrate" met the concerns expressed about a particular private school which only offered instruction in Albanian. It had led to violent clashes between supporters of the school and the State forces. Mr. Rechetov's call for teachers to be educated within State institutions was appropriate and explained his choice of the word "integrate". While he was aware of the negative connotations of the word, he felt nonetheless that "unitary" was by no means a solution.

75. Mr. RECHETOV (Country Rapporteur) said that Mr. Shahi would perhaps agree to retain "integrate" if he knew that the aim was not to force Albanian students to attend educational institutions that were not of their choice. Rather, the idea was that the Albanian university should be given the formal recognition it deserved and integrated, i.e. "included" in the education system.

76. The CHAIRMAN, further to a comment by Mr. SHAHI, suggested that the phrase might be reworded to read: "... to integrate different ethnic minority institutions in the education system ...".

77. Mr. SHAHI suggested replacing the phrase "to integrate different ethnic minorities in the educational system" with "to improve the educational system for the ethnic minorities".

78. Mrs. SADIO ALI proposed simply replacing "to integrate" with "to include", which would have the meaning of "to absorb".

79. Mr. DIACONU agreed, saying that the country had one educational system, not several. The educational system of each country should be inclusive, rather than exclusive, in the sense that it had to comprise all the sectors of the population.

80. Mr. YUTZIS said that replacing "to integrate" with "to include" could create problems; he proposed "to facilitate participation of ethnic minorities".

81. Mr. RECHETOV (Country Rapporteur) said all the proposals implied recognition of educational systems which had not been given the appropriate legal status. It was dangerous for a country to begin dividing its population from the earliest years of schooling. What the Committee was trying to say was that there was a single educational system, but that, where separate educational establishments had been set up by minorities, they had to be given the maximum attention by the authorities.

82. Mr. SHAHI said Mr. Yutzis' proposal met his concerns and avoided the ambiguity raised by the word "include", which implied that at present the minorities were excluded from the educational system.

83. Mr. RECHETOV (Country Rapporteur) suggested that the first part of paragraph 15 should be amended to read: "The Committee recommends that the State party continue its efforts to facilitate the participation of different ethnic minorities in the educational system", and the rest of the paragraph left unchanged.

84. It was so decided.

Paragraph 17

85. Mr. RECHETOV (Country Rapporteur) proposed some minor drafting changes in the penultimate line and suggested that the Committee's General Recommendation XXI (48) be reproduced in the form in which it had been adopted.

86. Mr. SHAHI said that although he had not been present when the General Recommendation on self-determination had been adopted, he had subsequently voiced his strong reservations about the wording. He could not, therefore, accept the last sentence of the paragraph. Furthermore, it would be the

first time that the Committee, of its own volition, was applying the General Recommendation. Secession of a minority was not an active issue in the former Yugoslav Republic of Macedonia. A reference to the General Recommendation was unnecessary and would introduce a significant precedent that would have to be applied to observations concerning other reports. There was no call for setting such a precedent. He was in favour of territorial integrity for States but the Committee seemed to be venturing into controversial territory by interpreting the principle of self-determination. Every multinational State had problems of the kind faced by the State party in question.

87. Mr. WOLFRUM, supported by Mr. RECHETOV (Country Rapporteur), said that although he had initially favoured the insertion of the last sentence, he would not insist on it. However, he disagreed with Mr. Shahi on one point. There was a very strong, openly declared Albanian-led secessionist movement in Macedonia which threatened the territorial integrity of the State. That being said, Mr. Shahi's words of caution were appropriate and he would agree to the deletion of that part of the paragraph.

88. Mr. ABOUL-NASR said that he had serious doubts about the paragraph. The Committee should not venture into an issue that had not been fully discussed with the State party. Furthermore, it might be asked which part of the Convention covered the issue of territorial integrity of all neighbouring States. The Committee had never adopted similar action before. Moreover, was General Recommendation XXI (48), of itself, not sufficient to address the issue?

89. Mr. WOLFRUM specified that he was in favour of ending the paragraph after the first sentence.

90. Mr. GARVALOV said that it would be appropriate for the Committee to mention territorial integrity in its observations because the issue had been discussed. From the statements of all the members of the delegation it had been clear that there was an awareness of secessionist tendencies and the threats to their country's territorial integrity. It would be right for the Committee to defend the former Yugoslav Republic of Macedonia as one of the newest States parties to the Convention and express concern about its territorial integrity.

91. Mr. ABOUL-NASR suggested that the present text should be replaced by two paragraphs: one asking the authorities to provide educational and cultural opportunities, and another, on the continued existence of the State, referring to the Committee's General Recommendation.

92. Mr. RECHETOV (Country Rapporteur) said that the paragraph was important. The former Yugoslav Republic of Macedonia was in an exceptional situation, as was the Russian Federation, where the issues surrounding Chechnya and other Caucasian republics could last for decades or even centuries. Many of its neighbours had called into question the Federal Republic of Macedonia's continued right to existence, along with the future of its ethnic groups and their right to develop their own culture and ethnicity. The stability of other neighbouring countries might be jeopardized. The Committee should therefore not give the impression that it was referring simply to schools, universities and other educational establishments; rather, it was talking

about the very existence of a State and the prevention of ethnic and possibly armed conflict in that part of the world. If the media discovered that the Committee was deleting a reference to the territorial integrity of the Balkan States, it might make the headlines; the deletion was not a good idea at all. He supported deleting the third, but not the second, sentence.

93. The CHAIRMAN suggested that the expression in an earlier Committee report of its commitment to the concept of multi-ethnic society should be used in the present observations.

94. Mr. SHAHI said that, in the interests of compromise, he would not object to retaining the first sentence of paragraph 17, but the second sentence should be deleted; otherwise, the same point might have to be made with regard to many other countries, and no two States could be considered by the same yardstick. Again, he urged caution in dealing with such sensitive and controversial issues as self-determination in relation to any one State.

95. Mr. RECHETOV said that, in a spirit of compromise, although he had said that the second sentence contained important points, he could join a consensus on retaining only the first sentence.

96. Mr. GARVALOV said he agreed with Mr. Shahi that each case should be considered on its own merits. That included the former Yugoslav Republic of Macedonia, which was, moreover, being discussed by the Committee for the first time. In response to a question he himself had asked, the representative of the State party had assured the Committee that article 49 of the Constitution had already been amended to exclude any possibility of the Republic's interfering in the internal affairs of neighbouring countries; unamended, the language had created apprehensions and problems with one of the Republic's neighbours. The Committee should recognize the problems relating to implementation of the Convention in the State party, which needed its support.

97. Mr. DIACONU said that the main argument for deleting the second sentence was its reference to the territorial integrity of neighbouring States; did that mean that the former Yugoslav Republic of Macedonia was threatening that integrity? Previously, the Committee had always referred to the protection of a State's own territorial integrity. If there were signs that the State was promoting an aggressive policy towards neighbouring States, the reference might be appropriate, but in any case he did not believe it was within the Committee's competence. If retained, the sentence should be amended, although he would prefer its deletion.

98. Mr. de GOUTTES said he favoured the idea of having two separate paragraphs. In that case, the second sentence should be amended as Mr. Diaconu had proposed.

99. Mr. RECHETOV (Country Rapporteur) explained that the second sentence should have begun with the phrase: "The territorial integrity of Macedonia, as of all neighbouring States ... ." He disagreed with the idea of splitting the paragraph into two.

100. Mr. WOLFRUM said it would have been appropriate to refer to the Committee's General Recommendation on self-determination, which stated that the Committee did not encourage any form of secession and was in favour of the preservation of State identity.

101. The CHAIRMAN said the General Recommendation was referred to simply as General Recommendation No. XXI (48); the Committee had decided against giving it another title.

102. Mr. van BOVEN said that, although the General Recommendation strongly favoured solutions within existing State borders, there were many other aspects to it, and it would be an oversimplification to link it only with that particular notion.

103. The CHAIRMAN said that if he heard no objection, he would take it that the Committee wished to adopt the first sentence only of paragraph 17.

104. It was so decided.

Paragraphs 18 and 19

105. The CHAIRMAN recalled Mr. Rechetov's earlier proposal: the Committee having adopted paragraph 5, paragraphs 18 and 19 were superfluous and should be deleted.

106. The concluding observations concerning the initial, second and third periodic reports of the former Yugoslav Republic of Macedonia as a whole, as amended, were adopted.

107. Mr. GARVALOV said that, in the third sentence of paragraph 8 of the summary record of the 1227th meeting (CERD/C/SR.1227), which reflected his intervention, "Bulgaria" should have read "Bulgarians". He wished again to express his concern over the situation of Bulgarians in the former Yugoslav Republic of Macedonia, whatever their number; to urge that there should be no more official pressure on them to express their Bulgarian awareness and origin openly and without obstacles; and to state that they must be guaranteed their rights under articles 8, 16 and 48 of the Constitution of the former Yugoslav Republic of Macedonia.

The meeting rose at 1 p.m.

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Fifty-first session

SUMMARY RECORD OF THE FIRST PART* OF THE 1242nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 21 August 1997, at 3 p.m.

Chairman: Mr. BANTON

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Draft concluding observations concerning the sixth to eleventh periodic reports of Burkina Faso

* The summary record of the second part of the meeting appears as document CERD/C/SR.1242/Add.1.

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations concerning the twelfth to fourteenth periodic reports of Norway (in-session document, in English only: CERD/C/51/Misc.31 - future CERD/C/304/Add.40 - future CERD/C/51/CRP.1/Add.24)

Paragraphs 1 and 2

1. Paragraphs 1 and 2 were adopted.

Paragraph 3

2. The CHAIRMAN asked the Committee whether it could agree to replace the phrase "nominating members of a jury among foreigners residing in Norway", towards the end of the second sentence, by the phrase "including resident foreigners in a jury".

3. It was so decided.

4. Paragraph 3, as amended, was adopted.

Paragraphs 4, 5, 6, 7 and 8

5. Paragraphs 4, 5, 6, 7 and 8 were adopted on the understanding that the article "the" would be inserted before the word "culture" in the first line of paragraph 5.

Paragraph 9

6. Mr. RECHETOV said that he would prefer the word "very" in the second line of the paragraph to be deleted.

7. Paragraph 9, as amended, was adopted.

Paragraphs 10, 11 and 12

8. Paragraphs 10, 11 and 12 were adopted.

Paragraph 13

9. Mr. RECHETOV, answering a question from Mr. SHERIFIS, said that it would indeed be rather inadvisable to encourage the party referred to in the penultimate line of the paragraph in the belief that it was a major party. Accordingly, it would be better to delete the adjective "major".

10. Paragraph 13, as amended, was adopted.

Paragraph 14

11. Mr. RECHETOV agreed with Mr. SHERIFIS and Mr. WOLFRUM that it was important to identify clearly the leader of the political party referred to in paragraph 14, who wanted the Sami parliament to be dissolved, since that person's motivations obviously had nothing in common with the fears of a member of the Committee that such an institution might lead to segregation of the Sami. He therefore suggested replacing "a [political party]" by "the above-mentioned [political party]" in the third line of the paragraph.

12. Paragraph 14, as amended, was adopted.

Paragraph 15

13. Mr. ABOUL-NASR said that it would be unwise to refer to foreigners and persons belonging to minority groups in the same terms in paragraph 15 since, while persons belonging to minority groups actually had the same rights, including the right to work, as other citizens of a country, that was not the case for foreign nationals, as emerged from the analysis of article 1, paragraph 2, of the Convention and the interpretation of the right to work given by many countries.

14. Mr. RECHETOV, supported by Mr. WOLFRUM, said he did not share that view but was prepared not to speak of "rights", as long as the notion of protection was retained, and to replace the last part of the sentence with the words "especially in the area of employment and housing".

15. Mr. AHMADU proposed adding the words "and health" in view of the claims that immigrants of African origin were subjected to AIDS tests. If that proposal was not accepted, the Committee might consider drafting a paragraph 15 bis dealing specifically with that question.

16. Mr. RECHETOV said that he favoured a separate paragraph since there appeared to be nothing, apart from such discriminatory treatment, to justify including the situation with regard to health of foreign nationals and members of minority groups in Norway among the "Principal subjects of concern".

17. The CHAIRMAN suggested that the Committee should revert to that question in a paragraph 15 bis of its draft concluding observations.

18. It was so decided.

19. Paragraph 15 was adopted with the amendment proposed by Mr. Rechetov.

Paragraph 15 bis (new paragraph 16)

20. Mr. AHMADU and Mr. WOLFRUM proposed a new paragraph, which would read:

> "Concern is also expressed over the reported allegations of the State party's Health Services that immigrants of African descent are generally tested for AIDS."

21. The CHAIRMAN, speaking as a member of the Committee, said that he could not accept that text.

22. Mr. WOLFRUM explained that the term "allegations" was intended to refer to reports that the Norwegian health services had described one group of immigrants as presenting a greater risk than others.

23. The CHAIRMAN, speaking as a member of the Committee, said that as far as he knew such rumours had originated from newspaper articles in which statistical data concerning various groups had been severely distorted.

24. Mr. ABOUL-NASR observed that the Committee had on previous occasions, based its conclusions on reports concerning much less serious cases in which a group had been treated unfairly. He recalled that the Organization of African Unity had received numerous complaints from individuals required to undergo AIDS testing merely on account of being Africans. Those complaints confirmed the information published in the press. Furthermore, it was perfectly natural that the Committee, having already voiced its concerns orally during the consideration of Norway's periodic report, should express those concerns in writing so as to bring them to the attention of the State party.

25. Mr. SHERIFIS said that it was important to specify the source of the allegations.

26. Mr. WOLFRUM said that the two main aspects of the problem were, first, the allegations made publicly by the national health services and, secondly, the fact that those services obliged all African immigrants to submit to tests for HIV. Regardless of the source of the information, there had been a flagrant act of discrimination based on national origin, and the Committee had to take a stand on the matter.

27. The CHAIRMAN suggested amending the text proposed by Mr. Ahmadu and Mr. Wolfrum to read:

> "The Committee expresses concern over reports that Africans have been obliged to submit to tests for HIV just because they are Africans."

28. Mr. ABOUL-NASR added that some European countries required Africans wishing to enter their territory to be in possession of certificates proving that they were HIV negative. That, too, was a discriminatory requirement.

29. Mr. GARVALOV proposed a text which would read:

> "The Committee is concerned that the State party's Health Services alleged that immigrants of African descent generally disproportionately test positively for HIV."

30. Mr. WOLFRUM proposed that the sentence read out by Mr. Garvalov should be inserted before the text suggested by the Chairman.

31. Paragraph 15 bis (new paragraph 16), as drafted, was adopted.

Paragraphs 16, 17, 18, 19, 20 and 21 (new paragraphs 17, 18, 19, 20, 21 and 22)

32. Paragraphs 16, 17, 18, 19, 20 and 21 (new paragraphs 17, 18, 19, 20, 21 and 22) were adopted.

Paragraph 22 (new paragraph 23)

33. Mr. RECHETOV proposed that, for the sake of consistency, the suggestion of Mr. YUTZIS to insert the words "employment and" before the word "housing" in the second line of the paragraph should be retained.

34. Paragraph 22 (new paragraph 23), as amended, was adopted.

Paragraphs 23 and 24 (new paragraphs 24 and 25)

35. Paragraphs 23 and 24 (new paragraphs 24 and 25) were adopted.

36. The Committee's draft concluding observations concerning the twelfth to fourteenth periodic reports of Norway, as orally amended, were adopted.

Draft concluding observations concerning the sixth to eleventh periodic reports of Burkina Faso (in-session document, in English only: CERD/C/51/Misc.40 - future CERD/C/304/Add.41 - future CERD/C/51/CRP.1/Add.26)

Paragraphs 1 and 2

37. Paragraphs 1 and 2 were adopted.

Paragraph 3

38. Mr. YUTZIS said he wondered whether the words "may affect" were not too weak.

39. Mr. DIACONU replied that the wording was justified inasmuch as the Committee did not have sufficient information to determine to what extent the economic situation might have contributed to racial discrimination.

40. Paragraph 3 was adopted.

Paragraphs 4 and 5

41. Paragraphs 4 and 5 were adopted.

Paragraph 6

42. The CHAIRMAN suggested that the words "of any kind" should be replaced by the words "on any grounds".

43. Paragraph 6, as amended, was adopted.

Paragraph 7

44. Paragraph 7 was adopted.

Paragraph 8

45. The CHAIRMAN said that, in the first line, he would prefer the wording "use of and instruction in".

46. Paragraph 8, as amended, was adopted.

Paragraph 9

47. Paragraph 9 was adopted on the understanding that the word "by" would be inserted after the word "complaints".

Paragraph 10

48. Paragraph 10 was adopted on the understanding that the word "the" would be inserted between the words "of" and "legal".

Paragraphs 11 and 12

49. Paragraphs 11 and 12 were adopted.

Paragraph 13

50. The CHAIRMAN suggested deleting the word "also" in the first line.

51. Paragraph 13, as amended, was adopted.

Paragraph 14

52. Mr. ABOUL-NASR said that preparing the statistics requested might involve excessive expenditure for the country.

53. Mr. DIACONU proposed that, instead of asking for statistical data, the Committee should request the information called for in paragraph 8 of the reporting guidelines.

54. Mr. SHERIFIS proposed that the word "all" in the second line should be replaced by the word "various", which was less exacting, and that a similar change should be made in the second line of paragraph 11.

55. The CHAIRMAN suggested that the text of the paragraph, after the words "its next report", should be redrafted to read "information in accordance with paragraph 8 of the reporting guidelines and on the representation of ethnic groups at various levels of public life, as well as on their enjoyment of economic, social and cultural rights".

56. It was so decided.

57. Paragraph 14, as amended, was adopted.

58. The suggestion of Mr. Sherifis concerning paragraph 11 was adopted.

Paragraph 15

59. Paragraph 15 was adopted with one minor drafting change.

Paragraph 16

60. The CHAIRMAN suggested replacing the word "attributions", to which Mr. SHAHI objected, by the word "powers".

61. Paragraph 16 was adopted with that amendment.

Paragraph 17

62. Paragraph 17 was adopted.

Paragraph 18

63. Mr. ABOUL-NASR said it should be made clear that the declaration provided for in article 14 of the Convention was optional. Furthermore, there was nothing to suggest that the State party had never considered making such a declaration and it would thus be more appropriate to use the word "reconsidered" instead of the word "considered".

64. The CHAIRMAN said that those two points would be taken into account in future.

65. Paragraph 18, as amended, was adopted.

Paragraph 19

66. Paragraph 19 was adopted.

67. The Committee's draft concluding observations concerning the sixth to eleventh periodic reports of Burkina Faso, as orally amended, were adopted.

Draft concluding observations concerning the seventh to tenth periodic reports of Burundi (in-session document, in English only: CERD/C/51/Misc.42 - future CERD/C/304/Add.42 - future CERD/C/51/CRP.1/Add.23)

Paragraph 1

68. Paragraph 1 was adopted.

Paragraph 2

69. Mr. DIACONU proposed that the words "and on the actual enjoyment by the population of its rights" should be deleted.

70. Paragraph 2, as amended, was adopted.

Paragraph 3

71. Mr. DIACONU proposed that the words "and flows of refugees" should be inserted after the words "the massive displacements of populations".

72. Paragraph 3, as amended, was adopted.

Paragraph 4

73. Paragraph 4 was adopted.

Paragraph 5

74. Mr. SHAHI indicated that the International Herald Tribune newspaper had recently reported a statement by the President of Burundi to the effect that peace talks aimed at national reconciliation would be held in September in the United Republic of Tanzania. He therefore proposed replacing the text of paragraph 5 with a new text in which the Committee would welcome the holding of those negotiations.

75. Mr. ABOUL-NASR said he doubted the appropriateness of welcoming a statement that had not been confirmed by the delegation of Burundi.

76. Mr. SHAHI pointed out that he had referred to the statement in the presence of the Burundian delegation, which had not denied it. In addition, the delegation had stated categorically that proceedings would be taken against persons suspected of having committed human rights violations.

77. After a discussion in which Mr. WOLFRUM, Mr. van BOVEN, Mr. AHMADU and Mr. SHAHI took part, Mr. SHAHI proposed that paragraph 5 should read: "The Committee welcomes the declared willingness of the State party to restore peace and security in Burundi through a political dialogue to be held in September 1997 in the United Republic of Tanzania, which, hopefully, could produce a government satisfactory to all sides. The declared policy of the Government to end impunity for perpetrators of human rights violations is also welcomed."

78. It was so decided.

79. Paragraph 5, as amended, was adopted.

Paragraphs 6 and 7

80. Paragraphs 6 and 7 were adopted.

Paragraph 8

81. Mr. DIACONU proposed that the paragraph should be deleted.

82. Paragraph 8 was deleted.

Paragraph 9 (new paragraph 8)

83. Mr. de GOUTTES proposed the deletion of the words "one or more".

84. Mr. ABOUL-NASR proposed inserting the word "oral" before the word "invitation".

85. Paragraph 9 (new paragraph 8), as amended, was adopted.

First paragraph of section D (new paragraph 9)

86. Mr. WOLFRUM read out a new paragraph proposed by Mr. Diaconu, which would be inserted at the beginning of section D and would read: "The main concern of the Committee is with the continuation of acts of violence and killings between persons of different ethnic background in Burundi".

87. New paragraph 9 was adopted.

Paragraph 10

88. Paragraph 10 was adopted.

Paragraph 11

89. Mr. WOLFRUM suggested, at the request of Mr. van Boven, that the words "its concluding observations of 17 March 1994" should be inserted at the end of the first line.

90. Paragraph 11, as amended, was adopted.

Paragraph 12

91. Paragraph 12 was adopted.

Paragraph 13

92. Mr. ABOUL-NASR proposed the deletion of paragraph 13.

93. Mr. WOLFRUM recognized that the request for information on the representation of members of the Tutsi, Hutu and Twa ethnic groups could be transferred to paragraph 22 and that paragraph 13 could then be deleted.

94. It was so decided.

Paragraph 14 (new paragraph 13)

95. The CHAIRMAN proposed that the paragraph should be supplemented with a sentence reading: "The Committee calls the State party's attention to its general recommendation XIX (47)".

96. Paragraph 14 (new paragraph 13), as amended, was adopted.

Paragraph 15 (new paragraph 14)

97. Following a discussion in which Mr. WOLFRUM, Mr. AHMADU, Mr. YUTZIS, Mr. SHERIFIS and Mr. DIACONU took part, the CHAIRMAN suggested that the paragraph should read:

> "Concern is expressed over reports of delay in the process of prosecuting those responsible for the assassination of President Ndadaye. The Committee is equally concerned over the slow process of prosecuting and punishing perpetrators of mass killings and disappearances. The delays cast doubt upon the effective implementation of the Government's policy of ending the pattern of impunity."

98. Paragraph 15 (new paragraph 14), as amended, was adopted.

Paragraph 16 (new paragraph 15)

99. Mr. WOLFRUM suggested, at the request of Mr. Diaconu, the insertion of the word "fully" in the first line of the paragraph before the word "implement".

100. It was so decided.

101. Paragraph 16 (new paragraph 15), as amended, was adopted.

Paragraph 17 (new paragraph 16)

102. Mr. SHERIFIS proposed that the words "each and all" should be replaced by the words "the various" in the first line.

103. Paragraph 17 (new paragraph 16), as amended, was adopted.

Paragraph 18 (new paragraph 17)

104. The CHAIRMAN suggested amending the beginning of the paragraph to read: "The insufficiency of the information received ...".

105. Mr. AHMADU proposed that the words "those camps" should be replaced by the words "the camps" in the second line of the paragraph.

106. Paragraph 18 (new paragraph 17), as amended, was adopted.

Paragraph 19 (new paragraph 18)

107. Paragraph 19 (new paragraph 18) was adopted.

Paragraph 20 (new paragraph 19)

108. Mr. WOLFRUM suggested, at the request of Mr. Diaconu, that the words "to the courts" should be deleted in the fourth line and that two commas

should be inserted in the following line, which would thus read "the publicity given to, and the effectiveness of, available remedies ...".

109. Paragraph 20 (new paragraph 19), as amended, was adopted.

Paragraph 21 (new paragraph 20)

110. Paragraph 21 (new paragraph 20) was adopted.

Paragraph 22 (new paragraph 21)

111. Mr. WOLFRUM confirmed, at the request of Mr. Sherifis, that the paragraph reproduced in part the recommendations made by the Committee in its decision 1 (47) of 16 August 1995.

112. Mr. ABOUL-NASR said he thought that the recommendations were unrealistic.

113. Mr. WOLFRUM pointed out that the wording reproduced the text of a decision that had been adopted by consensus. If those recommendations remained valid, the Committee should keep to them or else delete the whole of paragraph 22.

114. Mr. YUTZIS and Mr. van BOVEN said that the paragraph should be retained, even if the recommendations could be implemented only in the very long term.

115. Mr. DIACONU proposed, by way of a compromise, that the paragraph in question should read: "The Committee reiterates the recommendations made in its decision 1 (47) of 16 August 1995 and, while recognizing that the process may be lengthy, expresses its firm conviction that a durable solution makes it necessary to take them into account."

116. Mr. WOLFRUM proposed, for his part, that the beginning of the paragraph should be deleted and another sentence added at the end. The paragraph would thus read: "The Committee recommends that the next periodic report provide information on the representation of members of the Tutsi, Hutu and Twa ethnic groups in the Government, the administration, the judiciary, the police and the army. It further recommends that the Government, while restructuring the country, take decision 1 (47) of 16 August 1995 into consideration."

117. Mr. van BOVEN said he could accept the text proposed by Mr. Wolfrum provided that it enumerated, at the end, the three decisions taken previously by the Committee concerning Burundi, as in paragraph 11.

118. Mr. ABOUL-NASR said that he could also accept Mr. Wolfrum's proposal, but wished to point out that States parties to the Convention must all be treated alike and that the situation under consideration was not peculiar to Burundi.

119. The CHAIRMAN suggested that the wording proposed by Mr. Wolfrum for paragraph 22 should be adopted, with the end of the second sentence amended

to read: "and take into consideration the Committee's concluding observations of 17 March 1994, its decision 1 (47) of 1995 and its resolution 1 (49) of 1996".

120. It was so decided.

121. Paragraph 22 (new paragraph 21), as amended, was adopted.

Paragraph 23 (new paragraph 22)

122. Paragraph 23 (new paragraph 22) was adopted.

Paragraph 24 (new paragraph 23)

123. Mr. WOLFRUM proposed deleting the words "and apartheid" in the last line.

124. Paragraph 24 (new paragraph 23), as amended, was adopted.

Paragraph 25 (new paragraph 24)

125. Paragraph 25 (new paragraph 24) was adopted with one minor drafting change.

Paragraph 26 (new paragraph 25)

126. Paragraph 26 (new paragraph 25) was adopted.

Paragraph 27 (new paragraph 26)

127. Paragraph 27 (new paragraph 26) was adopted with one minor drafting change.

Paragraph 28 (new paragraph 27)

128. Paragraph 28 (new paragraph 27) was adopted.

Paragraph 29 (new paragraph 28)

129. Mr. WOLFRUM proposed, at the Chairman's suggestion, that the paragraph should be amended to read: "The Committee also requests that information on measures taken to ensure the safe repatriation of refugees to Burundi, as well as on the measures taken to protect refugees living in Burundi from violence, be provided in the State party's next periodic report."

130. Mr. SHERIFIS said that the proposed wording was not very felicitous.

131. The CHAIRMAN suggested that the paragraph should read: "The Committee also requests information in the next periodic report on measures taken to ensure the safe repatriation of refugees to Burundi and to protect from violence refugees living within Burundi."

132. It was so decided.

133. Paragraph 29 (new paragraph 28), as amended, was adopted.

Paragraph 30 (new paragraph 29)

134. Mr. YUTZIS suggested deleting the word "fully" in the penultimate line of the paragraph.

135. Mr. SHERIFIS said that he would prefer the end of the paragraph to read: "guaranteed in law and practice".

136. Paragraph 30 (new paragraph 29), as amended, was adopted.

Paragraph 31 (new paragraph 30)

137. Paragraph 31 (new paragraph 30) was adopted.

Paragraph 32 (new paragraph 31)

138. Mr. SHAHI proposed that the paragraph should read: "The Committee urges the Burundi authorities to take all necessary measures, in cooperation with the neighbouring countries, to find ways and means to restore peace and security in Burundi and in the region."

139. Mr. GARVALOV said that by opting for such a wording the Committee would be making a political statement unrelated to the Convention since there would be no mention of ethnic conflict.

140. Mr. RECHETOV proposed that the paragraph under consideration, in which the word "ethnic" would be deleted from the second line, should be combined with the text proposed by Mr. Shahi so as to read: "The Committee, being aware that the resolution of the ethnic conflict in Burundi cannot be achieved without the resolution of the conflict in the Great Lakes region, urges the Burundi authorities ..."; the rest of the paragraph would be worded as proposed by Mr. Shahi.

141. Mr. AHMADU proposed the deletion of the words "and in the region" at the end of the text proposed by Mr. Shahi.

142. It was so decided.

143. The CHAIRMAN suggested adopting the wording proposed by Mr. Rechetov, which was a compromise between the paragraph as drafted and the text of Mr. Shahi.

144. It was so decided.

145. Paragraph 32 (new paragraph 31), as orally amended, was adopted.

Paragraph 33 (new paragraph 32)

146. Paragraph 33 (new paragraph 32) was adopted.

Paragraph 34

147. Mr. ABOUL-NASR and Mr. van BOVEN said that it was inappropriate to refer to the declaration provided for in article 14 of the Convention given the situation in Burundi.

148. The CHAIRMAN suggested that paragraph 34 should be deleted.

149. It was so decided.

Paragraph 35 (new paragraph 33)

150. Paragraph 35 (new paragraph 33) was adopted.

151. The Committee's draft concluding observations concerning the seventh to tenth periodic reports of Burundi, as orally amended, were adopted.

152. Mr. AHMADU remarked that the Committee's concluding observations contained at least 15 requests for information or additional information which Burundi, like some other African countries, would be virtually unable to meet.

153. The CHAIRMAN assured Mr. Ahmadu that his statement would be reflected in the record.

Review of the implementation of the Convention in States parties whose reports are excessively overdue (continued)

Suriname: draft concluding observations (in-session document, in English only: CERD/C/51/Misc.22 - future CERD/C/51/CRP.1/Add.19)

Paragraph 1

154. Paragraph 1 was adopted.

Paragraph 2

155. Mr. de GOUTTES said that it might be useful to insert a phrase at the beginning of paragraph 2 reading: "While understanding the internal difficulties faced by the State party, ...". In addition, he proposed the insertion, after the first sentence, of a sentence that would read: "The

multi-ethnic composition of the population and the existence of indigenous communities in Suriname make the implementation of the Convention particularly important."

156. Mr. GARVALOV suggested that paragraph 1 should be prefaced with a sentence that would read: "In conformity with the decision of the Committee to consider the implementation of the Convention in States parties which have not yet submitted their initial reports, the Committee considered the case of Suriname." That would make it clear that the situation in Suriname had been examined not in an arbitrary manner but pursuant to a prior decision of the Committee - approved by the General Assembly of the United Nations - concerning States parties which had not yet submitted their initial reports.

157. Mr. ABOUL-NASR pointed out that other States, including the United States of America, were as late as Suriname in submitting their initial reports and that the implementation of the Convention in those countries would therefore have to be examined following the same procedure.

158. The CHAIRMAN said that the initial report of the United States of America was not, like that of Suriname, five years overdue. He suggested including the sentence proposed by Mr. Garvalov in the letter accompanying the text of the Committee's concluding observations to be sent to the Government of Suriname.

159. It was so decided.

160. The CHAIRMAN read out the amendment to paragraph 2 proposed by Mr. de Gouttes:

> "While understanding the internal difficulties faced by the State party, the Committee regretted that Suriname (...) to furnish relevant information. The multi-ethnic composition of the population and the existence of indigenous communities in Suriname make the implementation of the Convention particularly important. The Committee decided (...) as soon as possible."

161. Paragraph 2, as amended, was adopted.

Paragraph 3

162. Mr. AHMADU proposed replacing the words "an updated report drafted" by the words "submitting its initial report" in the last line of paragraph 3.

163. Paragraph 3, as amended, was adopted.

164. The Committee's draft concluding observations concerning the implementation of the Convention in Suriname, as orally amended, were adopted.

Guyana

165. Mrs. SADIQ ALI, Rapporteur for Guyana, said that the Government of Guyana had ratified the Convention in March 1977 but had not submitted to the Committee either its initial report or its second to tenth periodic reports,

due in 1978 and 1996, respectively. It had, however, submitted a core document on 28 June 1995. Guyana's failure to submit its periodic reports was probably due to its shortage of resources. It would perhaps be appropriate to recommend to the Government of Guyana that it should avail itself of the technical assistance offered by the High Commissioner/Centre for Human Rights under the advisory services programme.

166. In 1980, Guyana had a total population of 758,619, making it one of the least densely populated countries in the world. Its population was composed of East Indians (389,760), Africans (231,330), Portuguese (2,975) and Chinese (1,842), as well as Amerindians (39,867), Mixed (83,763) and others (9,082).

167. With regard to education, the adult illiteracy rate (3.6 per cent) was one of the lowest in the western hemisphere. In 1989, the school enrolment rate for children aged 6 to 17 years had been 82 per cent. The average unemployment rate was 13.5 per cent and life expectancy was about 70 years. The infant mortality rate had been estimated at 36.2 per 1,000 live births over the period 1980-1985. The principal religious communities were Christians, Muslims and Hindus. The country's official language was English, and Hindi, Urdu and certain Amerindian languages were also used.

168. The Amerindians lived in the vast undeveloped tropical forest regions of the country. Their standard of living was much lower than that of other citizens and they could not readily participate in taking decisions affecting their lands, culture and traditions and the allocation of natural resources. Amerindian life was regulated by the Amerindian Act, legislation dating from colonial times and designed to protect the indigenous peoples from exploitation. The Act gave the Government the power to determine who was an Amerindian and what was an Amerindian community, to appoint Amerindian leaders and, where necessary, to annul decisions made by Amerindian councils. That legislation was too restrictive and needed to be revised.

169. At a conference in February 1996 sponsored by the World Bank, the President of Guyana had promised to demarcate the lands to which Amerindians were entitled and to protect their resources from exploitation by foreign and local investors. It was not known whether the process of demarcation of indigenous lands had begun. However, some Amerindian non-governmental organizations - the Guyanese Organization of Indigenous Peoples and the Amerindian Peoples Association - had certainly declared that the World Bank-financed construction of roads through tribal lands had resulted in the decline of the Yanomani, Napishama, Nimbigara and Macushi communities living in the area south-west of the Rupunini river. The Government had promised to encourage the economic development of the Amerindian population and had appointed a Minister of Amerindian Affairs.

170. Political and social life continued to be marked by long-standing ethnic tensions, primarily between Guyanese of African and Indian descent. Discrimination and exclusion continued to occur. The Indo-Guyanese generally opted for a business or professional career. Some of them felt that the People's National Congress, while in power from 1965 to 1992, had established a pattern of racial discrimination in favour of the Afro-Guyanese. The Afro-Guyanese were very heavily represented in the civil service and the defence and police forces. Many of them felt that they had been the victims

of measures of racial discrimination and political persecution since the coming to power of the People's Progressive Party, which was largely made up of Indo-Guyanese. However, citizens were free to join any of the 17 political parties and organizations active in Guyana. The People's Progressive Party, the former opposition party, had taken office after the 1992 general elections, which had been considered free and fair by foreign observers.

171. Guyana had become a republic, within the Commonwealth, on 23 February 1970. The new Constitution, promulgated on 6 October 1980, guaranteed the fundamental rights of all persons regardless of race, sex or religious or national origin. It would seem, however, that the Government did not always make sure that its provisions were duly applied. It was not clear whether the provisions of the Constitution were consistent with articles 1 and 5 of the Convention. However, the core document submitted in 1995 stated that the provisions of the Convention could be invoked directly before courts other than administrative tribunals.

172. Supreme executive authority was exercised by the President, who appointed the leader of the opposition. He also appointed an ombudsman, after consultation with the minority leader, for a four-year term of office. The Constitution guaranteed the independence of the judiciary, a provision that was generally respected, but the slowness and inefficiency of the judicial system undermined due process. Reform programmes designed to improve legal structures and judicial procedures, to upgrade technical facilities and to improve the efficiency of the courts seemed to be having some positive effects.

173. The death penalty had not been abolished and, according to Amnesty International, at least four people had been sentenced to death in 1996 and 19 people remained under sentence of death for murder. However, no executions had been carried out. Instances of police violence had been reported. Three people had been killed by the police, four others had died in custody and 30 cases of police assaults and brutality had been recorded. In 1995, the police had received 113 complaints from citizens claiming to have been victims of police brutality. In addition, 32 police officers had been charged and tried for criminal offences, 5 others had been dismissed from the police force and several others had been disciplined. There was reportedly a marked loss of public confidence in the police force.

174. Concerning the situation of the Amerindian population, the Committee should request the Government of Guyana to indicate how far the Amerindian population participated in political life and enjoyed the socio-economic benefits provided by the State, in accordance with the principles set forth in article 5 of the Convention. Social indicators would be particularly useful in that regard. The Committee should also request the Government of Guyana to specify whether the Minister of Amerindian Affairs was of Amerindian origin. It should, in addition, request the Government to provide it with information on the composition and terms of reference of the independent commissions on the judiciary, the civil service and the police. Lastly, it should ask the Government to indicate whether specific criminal legislation prohibiting racist organizations had been promulgated pursuant to article 4 of the

Convention. The Committee should, furthermore, draw the Government's attention to its general recommendation XIII (42) on the training of law enforcement officials in the protection of human rights.

175. The CHAIRMAN said that, following the review procedure it had adopted in the case of Suriname and taking into account the report by Mrs. Sadiq Ali on the implementation of the Convention in Guyana, the Committee might wish to transmit to Guyana a communication regarding the submission of that country's periodic reports and also include, in its annual report to the General Assembly, the text of its concluding observations concerning Guyana. If it so wished, the Committee could consider its draft concluding observations the following day.

176. It was so decided.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 4) (continued)

Papua New Guinea

177. Mr. GARVALOV, Rapporteur for Papua New Guinea, indicated that the State party had not submitted a new report on the implementation of the Convention since 1984. He had based his comments on a variety of sources: the report of the Secretary-General of the United Nations on human rights violations in the Papua New Guinea island of Bougainville (E/CN.4/1996/58); the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his mission to Bougainville from 23 to 28 October 1995 (E/CN.4/1996/4/Add.2); the report prepared by the same Special Rapporteur pursuant to Commission on Human Rights resolution 1996/74 (E/CN.4/1997/60/Add.1); the consideration by the Committee, on 12 August 1994, of the implementation of the Convention in Papua New Guinea (CERD/C/SR.1060); the Committee's concluding observations concerning Papua New Guinea, adopted on 14 August 1994 (A/49/18); the United States Department of State Report for 1996 and the Amnesty International Report 1996.

178. In 1994, the Committee had, inter alia, urged the State party to resume the dialogue with it and to report. In addition, the Committee had requested information from the State party about the implementation of the Convention in the country as a whole and about the situation prevailing in Bougainville in particular. It had also suggested to the State party that it should cooperate with the Secretary-General of the United Nations and avail itself of the services of the Office of the United Nations High Commissioner/Centre for Human Rights with a view to the preparation of its reports, and had restated its willingness to accept any request by the Government of Papua New Guinea to provide technical assistance with a view to re-establishing a dialogue between the Government and the group controlling Bougainville. There had been no response to its suggestions and recommendations. However, the Government had requested the Secretary-General of the United Nations to send representatives to provide assistance in a new round of discussions between the Government and the main Bougainville parties. The Government had also received the Special Rapporteur on extrajudicial, summary or arbitrary executions.

179. There had been some major political developments in Papua New Guinea since August 1994, when the Committee had last considered the implementation of the Convention in that country. A Bougainville Transitional Government (BTG) had been formed in April 1995 to carry out the functions of a provincial government pending agreement on the island's constitutional status. The Bougainville Revolutionary Army (BRA) had refused to take up the seats reserved for it in the Transitional Government (E/CN.4/1996/58).

180. In June 1995, the Parliament had passed the new Organic Law on Provincial Governments and Local-Level Governments, which would come fully into effect in 1997 (E/CN.4/1996/58). The Secretary-General of the United Nations, following a request by the Prime Minister of Papua New Guinea, had sent a representative to participate in the All-Bougainville Leaders' Talks, which had been held in Cairns, Australia, in December 1995 and had been attended by delegations of the Bougainville Transitional Government, headed by the Premier, Mr. Miriung, and of the Bougainville Interim Government (E/CN.4/1996/58, para. 9). The two delegations had committed themselves to a process of dialogue that would permit the achievement of a political settlement to the conflict and they had expressed their intention to convene a new round of talks in Bougainville in 1996.

181. The peace process had since been undermined by a series of incidents. The returning delegation of the Bougainville Interim Government and the Bougainville Revolutionary Army had reportedly been the target of attacks, and a marked increase had been reported in the number of rebel attacks on the security forces, civilians and government installations. The Government of Papua New Guinea had yet to communicate to the Secretary-General whether it had given formal approval to the Cairns agreements. It had, however, insisted on the holding of preliminary meetings with the help of the United Nations in Papua New Guinea territory, but the Interim Government and the Bougainville Revolutionary Army were unwilling to accept for security reasons.

182. On 12 October 1996, Mr. Miriung had been killed. According to the Special Rapporteur on extrajudicial, summary or arbitrary executions, the United States Department of State and Amnesty International, other such executions had been perpetrated and Amnesty International reported a number of cases of "disappearances" in Bougainville. Furthermore, the United States Department of State report referred to numerous cases of discrimination and violence against women and the disabled, as well as ethnically motivated tribal violence.

183. According to the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/1996/4/Add.2, para. 78), the crisis had begun when it had been perceived by Bougainvilleans that profits from the mining operations of Bougainville Copper Limited (BCL) should not be distributed equally to all provinces but should be allocated mainly to the people of Bougainville. In the Special Rapporteur's view, that was an issue to be settled by the parties concerned, but the Government of Papua New Guinea nevertheless had the duty to safeguard the human rights of all the people of Papua New Guinea in all circumstances. The Special Rapporteur further stated that the Bougainville Transitional Government seemed to be playing a role which was acceptable to the people of Bougainville as well as to the Government of Papua New Guinea, and that it should therefore be supported and

encouraged. He concurred with the Special Rapporteur but felt that the Bougainville crisis could not be resolved without the agreement of the Bougainville Interim Government and the Bougainville Revolutionary Army.

184. The State party needed to report to the Committee and to provide it with information about the latest developments concerning the situation in Bougainville and indicate the steps it was taking to resolve the crisis. Those two requests would have to be included in the Committee's concluding observations on Papua New Guinea. The problem of Bougainville remained unresolved and, unfortunately, was becoming more acute.

185. The CHAIRMAN said he took it that the Committee wished to keep the situation in Papua New Guinea under review.

186. It was so decided.

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Fifty-first session

SUMMARY RECORD OF THE 1242nd MEETING (SECOND PART)*

Held at the Palais des Nations, Geneva,
on Thursday, 21 August 1997, at 3 p.m.

Chairman: Mr. BANTON

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* The summary record of the first part of the meeting appears as document CERD/C/SR.1242.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.97-18837 (E)

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Draft concluding observations concerning Ethiopia (document distributed in the meeting room, in English only: CERD/C/51/Misc.14 - Future CERD/C/51/CRP.1/Add.10)

1. The draft concluding observations concerning Ethiopia were adopted.

Draft concluding observations concerning Guyana (document distributed in the meeting room, in English only: CERD/C/51/Misc.44 - Future CERD/C/51/CRP.1/Add.17)

Paragraph 1

2. Paragraph 1 was adopted.

Paragraph 2

3. Mr. de GOUTTES read out an amendment proposed by Mrs. Sadiq Ali, which consisted of adding, after the first sentence, a sentence to read: "The multi-ethnic composition of the population and the existence of indigenous communities in Guyana make the implementation of the Convention particularly important".

4. Mr. VALENCIA RODRIGUEZ proposed that the word "resumed" in the last sentence should be replaced by the word "started".

5. Paragraph 2, as amended, was adopted.

Paragraph 3

6. Paragraph 3 was adopted.

7. The Committee's draft concluding observations concerning Guyana, as orally amended, were adopted.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 4) (continued)

Draft decision 1 (51) on Papua New Guinea (document distributed in the meeting room, in English only: CERD/C/51/Misc.45)

Paragraphs 1 and 2

8. Paragraphs 1 and 2 were adopted.

Paragraph 3

9. Paragraph 3 was adopted, subject to an editorial change.

Paragraph 4

10. Paragraph 4 was adopted.

Paragraph 5

11. Paragraph 5 was adopted, subject to an editorial change.

Paragraph 6

12. Mr. YUTZIS proposed that the words "and regrets" should be added after the word "condemns" in the first line of the paragraph.

13. The CHAIRMAN noted that the word "of" in the penultimate line of the paragraph should be replaced by the word "for".

14. Paragraph 6, as amended, was adopted.

Paragraphs 7-9

15. Paragraphs 7-9 were adopted.

16. Draft decision 1 (51) on Papua New Guinea, as orally amended, was adopted.

CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION (agenda item 9) (CERD/C/323)

17. The CHAIRMAN, referring to the Secretary-General's note concerning article 15 of the Convention (CERD/C/323), suggested that the Committee should make the following observations, based on the language used in previous years:

> "The Committee once again finds it impossible to fulfil its functions under article 15, paragraph 2 (a), of the Convention, owing to the total absence of any copies of petitions as provided therein. Furthermore, the Committee found that there was no valid information concerning legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention and, therefore, reiterates its request that it be furnished with the material expressly referred to in article 15 of the Convention so that it will be able to fulfil its functions."

18. It was so decided.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 10)

Work of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/51/301, E/CN.4/1997/71)

19. The CHAIRMAN invited Mr. van Boven to comment on the activities of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

20. Mr. van BOVEN said that he had looked through documents A/51/301 and E/CN.4/1997/71, which reproduced reports by Mr. Maurice Glélé-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related forms of intolerance, in accordance with Commission on Human Rights resolution 1996/21. The documents contained interesting information on the Special Rapporteur's visits to a number of countries, but did not analyse the situation in the countries concerned. It was also unfortunate that the Special Rapporteur made no reference to the Committee's work or to the existence of the Convention. That would appear to indicate that there were two completely separate mechanisms covering the same question with absolutely no coordination between them. However, in resolution 1997/74, entitled "Racism, racial discrimination, xenophobia and related intolerance", the Commission invited the Governments of the concerned States parties to the Convention to consider including in their periodic reports to the Committee information on the measures they had taken to implement the relevant recommendations of the Special Rapporteur. That showed that the Commission recognized the need for cooperation between the two mechanisms. In view of that fact, the Special Rapporteur's indifference to the Committee's activities might be drawn to the Commission's attention. Lastly, the Committee should make known its keen interest in the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance and the fact that it wished to participate more actively in the preparations for the Conference.

21. The CHAIRMAN said that those concerns would be reflected in the Committee's annual report to the General Assembly.

22. Mr. GARVALOV said that the collective wisdom of an organ composed of many experts, like the Committee, was the guarantee of a superior authority and could not be equalled by the merits of a single individual. He hoped that the Commission on Human Rights, the Economic and Social Council and the General Assembly would take greater account of the Committee's work, and he found it regrettable that, quite obviously, the Special Rapporteur had been entrusted with most of the preparations for the World Conference.

23. The CHAIRMAN said that, if the Committee retained the idea of sending a letter to the High Commissioner for Human Rights, the letter in question could include the points just raised.

24. Mr. WOLFRUM endorsed Mr. van Boven's remarks. He noted that the Special Rapporteur in question had been appointed at the initiative of States that were not parties to the Convention, which could partially explain the situation. When the Committee considered reports, it analysed the situation in the different countries much more thoroughly than did the Special Rapporteur, and the Committee, with its 18 members from different cultures, was in a position to make a much finer assessment of the racial discrimination issue. The Committee's competence placed it in an authoritative position, and it should submit proposals on organization and goal-setting for the World Conference, as it was very important that such a costly event should be carefully prepared.

25. Mr. DIACONU proposed that, given the late hour, the Committee should continue its discussion of the work of the Special Rapporteur at the following meeting.

26. It was so decided.

Draft working paper on article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/51/Misc.1/Rev.1)

27. The CHAIRMAN invited Mr. Garvalov to provide the Committee with a progress report.

28. Mr. GARVALOV said that Mrs. Sadiq Ali and he had met twice with Mr. Bengoa and Mr. Mehedi, members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and that they had decided together that a letter would be sent to all States Members of the United Nations - not only to States parties to the Convention - asking them to communicate any relevant information on measures they had taken to implement article 7 of the Convention. It should be possible to submit the final version of the working paper on article 7 to the Committee and the Sub-Commission in August 1998.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

29. The CHAIRMAN, referring to suggestions he had made in document CERD/C/51/Misc.2, said that, in accordance with paragraph 6 of General Assembly resolution 49/178, the Committee had addressed a message to the sixteenth meeting of States parties (CERD/SP/56), to which the States parties had not yet responded. They had been asked, in particular, to take note of the report of the fifth meeting of persons chairing the human rights treaty bodies (A/49/537), notably paragraph 17 on overdue and non-submitted reports, where the chairpersons had urged the States parties to deal with that matter at their regular meetings and said that those meetings should not only be devoted to elections of members of treaty bodies, but should consider general problems relating to the implementation of the treaties.

30. He suggested that the Committee should inform the seventeenth meeting of States parties that two three-week sessions per year were no longer sufficient for it to fulfil its functions and that it was requesting a third session. The idea of one of the Committee's sessions being held at United Nations Headquarters rather than Geneva might also be suggested.

31. The Committee should also inform the States parties that the resources made available to the Centre for Human Rights were insufficient for the Centre to provide the Committee with all the secretariat services it needed.

32. Mr. WOLFRUM endorsed the suggestion that some of the Committee's sessions should be held in New York. He would also be in favour of holding sessions in other regions, in particular when that would be appropriate for the country reports being considered. However, he was not in favour of holding a third annual session, which might eventually alter the Committee's make-up, since it was difficult for professionally active experts to free themselves for nine weeks every year.

33. Mr. YUTZIS said that it should be verified whether the States parties had actually failed to reply to the Committee's communication. The idea of organizing sessions in different regions, naturally insofar as logistical problems could be resolved, appealed to him much more than the suggestion that some Committee sessions should be held in New York. With regard to the financial problems facing the Centre for Human Rights, he particularly regretted the fact that the Committee was not being provided with the assistance of a permanent secretariat.

34. Mr. AHMADU said that holding sessions at Headquarters and in different regions would definitely enhance the effectiveness of the Committee's work, but that that question came within the competence of the Secretary-General rather than that of the States parties. Although it was not very realistic to hold a third session, for the reason mentioned by Mr. Wolfrum, consideration might be given to extending one of the Committee's two annual sessions by one week. That question came within the competence of the Secretary-General and the various options should first be considered within the Committee. The main point to which the States parties' attention should be drawn was the insufficient resources of the Centre for Human Rights, which were the source of most of the difficulties encountered by the Committee.

35. Mr. de GOUTTES said that he, too, was against holding a third session, which would necessarily involve extra expenditures and organizational problems for the members of the Committee. He suggested that the Committee should review its working methods in order to complete its activities by the deadlines assigned to it.

36. Mrs. SADIQ ALI proposed that the Committee should not merely submit a communication to the next meeting of States parties, but should also send Mr. Valencia Rodriguez and Mr. Ferrero Costa to the meeting to speak about the difficulties the Committee was encountering. She agreed with the idea of extending one of the Committee's two annual sessions by one week. The idea of holding certain sessions in the regions also appeared to be a sound one provided that the necessary resources could be found.

37. Mrs. ZOU said that she also objected to the idea of a third annual session, but would be in favour of extending the summer session by one week since it was at that session that the Committee prepared its report to the General Assembly.

38. Mr. SHAHI fully supported Mrs. Sadiq Ali's proposal that Mr. Valencia Rodriguez and Mr. Ferrero Costa should be sent to speak at the next meeting of States parties, as such an action would reinforce the impact of the Committee's written communication. Concerning the idea of a third session, the Committee should be realistic and dismiss as inappropriate any suggestions involving extra expenditure. The solution of holding one four-week session would probably be the most reasonable one.

39. Mr. VALENCIA RODRIGUEZ said that he would be happy to speak at the next meeting of States parties if the Committee wished him to do so and that Mr. Ferrero Costa's help would be greatly appreciated. He agreed with the other members who felt that a third session would not be appropriate and supported the idea of adding a fourth week to one of the sessions. Lastly, he

was not opposed to holding sessions in New York or different regions once in a while, if the budgetary resources were available, and, in the case of the regions, if the United Nations practice of responding to a Government's invitation was followed.

40. Mr. ABOUL-NASR endorsed the suggestion of sending two members to speak at the next meeting of States parties. However, he was opposed to the idea of a third session and proposed that the Committee should organize itself more efficiently in order to complete its work in the six weeks allotted to it. As for the financial difficulties of the Centre for Human Rights, he proposed that the Chairman should meet personally with the High Commissioner for Human Rights and explain to her the repercussions of those problems - insufficient services, in particular - for the Committee. The holding of certain sessions in different regions was an appealing proposal, especially as the cost of such sessions might be charged to the budget for the Third Decade. Such an initiative would also give the people of the regions concerned a clearer idea of the Committee's activities and ultimately make them more affective.

41. After a brief exchange of views among the CHAIRMAN, Mrs. SADIQ-ALI, Mr. VALENCIA RODRIGUEZ and Mr. SHAHI, the CHAIRMAN said that he would send a written communication, in the name of the Committee, to the Chairman of the next meeting of States parties, the main points of which would be reproduced in the statement by Mr. Valencia Rodríguez and Mr. Ferrero Costa at that meeting. Regarding lack of resources as an argument for rejecting the idea of a third annual session, the Committee's priority must be to inform the competent bodies of the logistical support it needed to perform its duties to the full, without going into possible budgetary implications.

42. Mr. YUTZIS endorsed Mr. Aboul-Nasr's earlier proposal to the effect that the Chairman should meet personally with the new High Commissioner to inform her of the Committee's expectations, particularly regarding the assignment of a permanent secretariat to it.

43. The CHAIRMAN said that he would be happy to meet with the High Commissioner.

The meeting rose at 8.15 p.m.